



BRIEFING

Improving responsible camping – revised Cabinet paper and discussion document for ministerial consultation

Date:	2 March 2021	Priority:	High
Security classification:	In Confidence	Tracking number:	2021-2594

Action sought		
	Action sought	Deadline
Hon Stuart Nash Minister of Tourism	<p>Circulate the attached Cabinet paper and draft discussion document to other ministers for consultation</p> <p>Provide any feedback to MBIE on the documents by 16 March to enable lodgement with Cabinet Office on 18 March</p>	3 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, Ministry of Social Development, the Treasury

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 Withdrawn |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



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Improving responsible camping – revised Cabinet paper and discussion document for ministerial consultation

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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.

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 revised versions of the draft Cabinet paper and discussion document *Noted*
- b **note** that officials have incorporated feedback from the Treasury into the Cabinet paper *Noted*
- c **note** that officials are consulting the Ministry of Housing and Urban Development, the Ministry of Social Development and Kāinga Ora on documents and we have requested feedback by Monday 8 March *Noted*
- d **circulate** the draft Cabinet paper and draft discussion document to your ministerial colleagues for consultation *Agree/Disagree*
- e **provide** feedback to MBIE on any changes you require to the draft Cabinet paper and draft discussion document by 16 March to enable lodgement with Cabinet Office by 10 am Thursday 18 March. *Agree/Disagree*

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

Hon Stuart Nash
Minister of Tourism

2 / 03 / 2021

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Background

1. On 1 March 2021, you:
 - a. met the Ministers of Local Government, Transport and Conservation for a preliminary discussion about the proposals to improve freedom camping that you wish to consult publicly about
 - b. provided feedback to officials about drafting amendments to the Cabinet paper, including a greater focus on maintaining social licence as a driver for improving the regulatory system for freedom camping (2021-2457 refers).
2. You also advised that you would undertake broader ministerial consultation on the draft Cabinet paper and discussion document over a period of 10 working days.
3. An amended version of the draft Cabinet paper and draft discussion document are attached as **Annex One** and **Annex Two** for ministerial consultation.

Further consultation with other agencies

4. Consultation has been completed with the Treasury and its comments are included in the draft Cabinet paper. The Treasury's main concern relates to the financial implications of the proposals. In particular, it indicates that the ongoing operational costs for the changes would need to be sought through Budget if the expected revenue does not equal the amount required to implement these changes.
5. The Treasury also noted:
 - a. The proposed timing of the public consultation may be problematic, given the tourism sector is currently distressed. In the Treasury's view, the proposals risk slowing recovery of the industry by possibly deterring international and domestic tourism.
 - b. \$85 million has been invested into infrastructure, but there is no clear evidence that this has not improved the behavioural issues of freedom campers.
 - c. There are a number of behavioural issues with freedom camping cited in the paper but these are not being addressed by the proposals. A requirement for vehicles to be self-contained will not solve other behavioural issues, such as rubbish being inappropriately disposed of.
 - d. There is no discussion in the Cabinet paper of the benefits of freedom camping (we have added a comment to address this in the Cabinet paper).
6. Your office also suggested that we should also consult the Ministry of Social Development (MSD) and Kāinga Ora. As the main potential touch-point of freedom camping for these agencies homelessness, in addition to MSD and Kāinga Ora we have also initiated consultation with the Ministry of Housing and Urban Development (HUD). We have requested any comments from these agencies by midday Monday 8 March.
7. MSD has given preliminary feedback that it would not expect the proposals to have much impact on homeless people. We have reflected this in the Cabinet paper. MSD notes that, anecdotally, the homeless are more likely to be sleeping in cars, which will not be affected by the proposal to require vehicle with purpose-built sleeping facilities to be self-contained. Similarly, most homeless people would not be affected by the alternative proposal to require

freedom campers to stay in a self-contained vehicle or at a site with a toilet, as this has an exclusion for urban areas.

8. We will update you on any further feedback from MSD, HUD and Kāinga Ora at your next meeting with officials.

Changes to the documents

9. We have shortened the paper in an effort to meet the Department of Prime Minister and Cabinet's recommendation that a Cabinet paper should be a maximum of 10 pages long. The paper is currently 13 pages long. If we shorten the paper further, there is a risk the paper will not provide the Cabinet Committee with sufficient information on the problem to make informed decisions about the proposals for public consultation, and will not adequately reflecting comments from agencies on the proposals.
10. We have changed the titles of the proposals as follows, to more clearly indicate that the proposal for legislated minimum standards for self-containment is a foundation for either of proposals 1 or 2:
 - Proposal 1: make it mandatory for vehicles with purpose-built sleeping facilities to be certified self-contained
 - Proposal 2: require freedom campers to stay in vehicles that are certified self-contained, unless they are staying at a site with toilet facilities
 - Proposal 3: improve the regulatory tools for government land managers
 - Proposal 4: strengthen the requirements for self-contained vehicles.
11. We noted that you wish to change the title for proposal 4 to "strengthening the current self-contained vehicle standard regarding required toilet facilities". We think this may be slightly misleading, as the proposal is not to strengthen the current voluntary New Zealand Standard, rather it is to legislate new requirements. Changing a New Zealand Standard is an independent, consensus-based approach. It may not result in the outcome desired by Government and it may also take up to 16 months for the revision process to occur. We therefore recommend the title for Proposal 4 is as suggested above.

Compliance and enforcement costs of proposals 1 and 2

12. We noted the comments provided by your office that proposal 1 is expected to have lower compliance and enforcement costs than proposal 2.
13. We would welcome a further discussion with you about the assumptions underpinning these comments. While decisions have yet to be made on the detailed design of the new regulatory regime, our assumptions lead us to a different conclusion. We set out our preliminary assumptions below. These have not yet been tested in detail with other agencies.

Compliance costs

14. We assume that, in order for a vehicle owner with a non-self-contained vehicle that has purpose-built sleeping facilities to comply with proposal 1, they would need to convert their vehicle to meet the new minimum requirements for self-containment. A basic conversion to self-containment, using a portable toilet, is estimated to cost around \$500 to \$800, and a higher standard for self-containment would impose higher costs.

15. In comparison, in order for a freedom camper who owns a non-self-contained vehicle to comply with proposal 2, they may either choose to camp at sites that have toilet facilities (including potentially paid campgrounds), or to convert their vehicle as above.
16. If the vehicle owner chooses not to upgrade their vehicle, they will be able to stay for free at some freedom camping sites, or will need to pay to stay at sites with facilities in other cities and districts. The cost of staying at a paid campsite ranges from \$20 per adult per night for a Department of Conservation (DOC) site, to around \$45 per night at a holiday park. The compliance cost would therefore be lower, although over time it may result in the camper paying more to DOC and holiday park owners than the cost of converting their vehicle.

Enforcement costs

17. Our understanding is that proposal 1 will entail prohibitions of three activities that will require enforcement action:
 - a. use of vehicles that contain purpose-built sleeping facilities that are not self-contained
 - b. sale of the same vehicles
 - c. lease of the same vehicles.
18. We expect that a significant component of the enforcement activity would occur in respect of the **use of prohibited vehicles**. Although the number of vehicles in private ownership compared with rental businesses is unknown, there are privately owned vehicles with purpose-built sleeping facilities used for freedom camping. The summer 19/20 research commissioned by MBIE showed that 54 per cent of international freedom campers interviewed (only 505 people) used their own vehicle. Of this, 13 per cent were cars.
19. A primary avenue for identifying the prohibited vehicles would be when they are taken to a vehicle safety inspection service for a warrant or certificate of fitness (WoF or CoF). The vehicle safety inspector could be required to either:
 - a. report that the vehicle is suspected to be of the prohibited type and the enforcement agency would then take action (eg issue an infringement where the vehicle owner has a short period of time in which to rectify the matter), or
 - b. fail the vehicle's WoF or CoF until the vehicle has been converted and certified as self-contained (or the sleeping facilities removed). We note the Ministry of Transport and Waka Kotahi NZ Transport Agency's previous comments that the new requirements would not relate to vehicle safety, and we therefore expect they are unlikely to support this option (and potentially the former option).
20. In addition, we assume that some enforcement of the prohibition on use of the vehicles would occur 'at place', where the vehicles are seen by freedom camping enforcement officers. The enforcement officers would require powers of entry because it is unlikely to be possible to determine if the vehicle meets the definition of having purpose-built sleeping facilities from the exterior. Powers of entry could potentially be provided to territorial authorities and DOC enforcement officers in order to inspect a vehicle that is suspected to be in breach of the requirements. However, this additional entry and inspection activity will be more expensive than checking a warrant of self-containment in the windscreen (proposal 2).
21. To enforce the prohibition on **lease of vehicles**, enforcement activities could be relatively easily targeted at rental companies. We note that Waka Kotahi already does compliance work with vehicle rental companies.
22. Enforcing the prohibition on the **sale of vehicles** will be much more complex. Enforcement action will be needed that targets second-hand vehicle sales by private individuals as well as

motor vehicle traders. The former is likely to be more challenging than the latter, although both will require investigation activities to monitor vehicle sales of interest. It would likely require a partnership with online sales platforms such as TradeMe. We have not had discussions with any online sales platforms yet, but we expect enforcement in respect of vehicle sales would require a lot of field investigation and therefore be expensive.

23. In comparison, enforcement costs for Proposal 2 are expected to be lower – although this needs to be tested during the public consultation period. Local authority and DOC enforcement officers will have an additional offence for which they can take appropriate enforcement action. They will not need powers of entry; they will simply be able to check the certificate of self-containment on the vehicle and/or the register to determine if it is self-contained and therefore meets the local freedom camping bylaw or notice, and the national-level requirement to stay at a site with toilets if the vehicle is not self-contained.

Timeline

24. We have adjusted the timeline to provide for 10 working days’ ministerial consultation for both Cabinet papers.
25. The next milestone is lodgement of the Cabinet paper and draft discussion document with the Cabinet Office on Thursday 18 March, for consideration of the papers by Cabinet Economic Development Committee (DEV) on Wednesday 24 March. Assuming the recommendations are confirmed by Cabinet on 29 March, we recommend you launch the consultation by press release on Monday 29 March.
26. There are flow on effects for the timeline to enact legislation. To achieve enactment by 1 January 2022, time will need to be saved from one or more of the following stages:
- a. submissions analysis and policy development (currently allowing 4 weeks – we expect there to be thousands of submissions given the likely high public interest in the topic)
 - b. PCO drafting time for the bill (PCO has previously advised that, based on the expected size and complexity of the bill, drafting is expected to take three months)
 - c. select committee examination of the bill (currently allowing two months, in line with your earlier direction for an expedited timeline).
27. The table below shows the timeline allowing the above timeframes for the different stages. We recommend that we revisit this with you once the legislation priorities have been determined by Cabinet. If a priority of 3 (to be passed if possible in the year) is assigned for a bill to give effect to regulatory changes for freedom camping, we will engage with PCO to develop a suitable timeline. We will keep you informed of the numbers of submissions and any implications for the development of recommendations following public consultation.

Timing	Milestone
Week of 1 March	Minister receives revised draft Cabinet paper and draft discussion document for ministerial consultation on 2 March Minister’s Office circulates documents for ministerial consultation on 3 March
Week of 8 March	Ministerial consultation underway

Timing	Milestone
Week of 15 March	Ministerial consultation underway until Tuesday 16 March Minister provides directions to MBIE about any changes he requires to the papers as soon as possible to enable amendments to be made on Wednesday 17 March Minister's Office lodges papers with Cabinet Office by 10 am on Thursday 18 March
Week of 22 March	DEV Cabinet Committee Wednesday 24 March
Week of 29 March	Cabinet Monday 29 March Minister launches public consultation by press release on Monday 29 March
29 March to 26 April	Public consultation period (closing on Monday 26 April – public holiday for observance of ANZAC Day) 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
27 April to 21 May	Officials undertake submissions analysis <i>This period could potentially be shortened, depending on the volume of public submissions</i>
Late May	Officials to provide advice to the Minister and seek direction for Cabinet paper seeking final policy decisions
Early June	Cabinet paper drafted and relevant agencies consulted
Mid June	Draft Cabinet paper provided to the Minister for consideration and ministerial consultation (10 working days)
Early July	Cabinet paper lodged and considered by DEV (target 7 July meeting)
Mid July	Cabinet makes final policy decisions (potentially 12 July) Drafting instructions issued to PCO
Mid July – Mid October	Drafting by PCO and BORA vet <i>This period could potentially be shortened, depending on the complexity of the Bill</i>
End October	LEG Cabinet Committee
Early November	Introduction of the Bill and first reading (assumes priority)
November 2021 – February 2022	Select Committee (shortened period for examination of the Bill of two months) <i>This period could potentially be shortened, depending on the likely level of public interest</i>
March 2022	Enactment
2022	Regulations developed and commence

28. We will monitor the timeline regularly and, in particular, as each milestone is achieved to ensure that the work programme can be delivered as quickly as possible.

Annexes

Annex One: Draft Cabinet paper

Annex Two: Draft Discussion Document

Annex One: Draft Cabinet paper

Annex Two: Draft discussion document
