



AIDE MEMOIRE

Freedom Camping: Revised Draft Cabinet Paper

Date:	29 September 2021	Priority:	High
Security classification:	In Confidence	Tracking number:	2122-1124

Information for Minister

Hon Stuart Nash
Minister of Tourism

Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
Sally Page	Principal Advisor, Tourism Policy	Privacy of natural persons	✓
Thomas Nicholls	Policy Advisor, Tourism Policy	Privacy of natural persons	

The following departments/agencies have been consulted

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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 Withdrawn |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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Freedom Camping: Revised Draft Cabinet Paper

Date:	28 September 2021	Priority:	High
Security classification:	In Confidence	Tracking number:	2122-1124

Purpose

To provide you with an update on changes made to the draft Cabinet Paper *Supporting Sustainable Freedom Camping in Aotearoa New Zealand – Proposals for Regulatory Change*.

Sally Page
Acting Manager, Tourism Policy
Labour, Science and Enterprise, MBIE

29 / 09 / 2021

Comment

1. This Aide Memoire accompanies the next iteration of the Cabinet paper *Supporting Sustainable Freedom Camping in Aotearoa New Zealand – Proposals for Regulatory Change*, and outlines the key changes to that paper as a result of consultation with other agencies. Following your response to a separate briefing [briefing 2122-0966 refers] we will provide a final version for consultation with other Ministers.
2. The key dates for this Cabinet paper are:
 - a. Ministerial consultation from 6 October to 18 October 2021
 - b. Lodgement on Thursday 21 October 2021
 - c. Cabinet Economic Development (DEV) Committee on 27 October 2021
 - d. Cabinet Monday 1 November 2021.

Inter-agency consultation

3. MBIE received feedback on the Cabinet paper from the Ministry of Health, Department of Conservation (DOC), Waka Kotahi New Zealand Transport Authority (Waka Kotahi), Toitū te Whenua Land Information New Zealand (LINZ), Department of Internal Affairs, Kāinga Ora, Ministry of Housing and Urban Development, Ministry of Transport, Ministry of Social Development and Treasury. Your office has also suggested some minor changes. The majority of this feedback has been supportive of the paper.

Treatment of Waka Kotahi and LINZ land

4. This version of the Cabinet paper includes a new section covering the application of the new Freedom Camping rules and regulations to Crown land managed by Waka Kotahi and LINZ. At a high level, it proposes that the Freedom Camping Act 2011 be amended to enable regulation of freedom camping on land administered by these agencies. Both agencies have been consulted on the text and are happy with it. The proposed approach varies slightly between Waka Kotahi land and LINZ land, which is a reflection of the different ways those agencies use the land and the way in which they prefer to manage freedom camping:
 - a. Waka Kotahi has signalled they wish to take a more hands-off approach to enforcement, and want local councils to effectively manage freedom camping as if the land belonged to the local authority. The approach proposed is for a local authority to be able to nominate land as local authority land in their bylaws (with the agreement of Waka Kotahi) for the purposes of implementing the Act. Although there was some reluctance expressed at the Responsible Camping Working Group on the part of Councils to this approach, Waka Kotahi have told us that they work very closely with local councils on a range of land management issues.
 - b. LINZ land tends to be managed in a way that is more akin to private land, and LINZ wish the default to continue to be that freedom camping is prohibited on most LINZ sites, with only a handful of exceptions (notably Lake Dunstan). LINZ are happy that the new Freedom Camping rule and regulations will provide them with an extra tool to manage Freedom Camping on their land, and at this stage they want to retain flexibility around who will be the enforcer of the rules. This may be LINZ staff, or a party contracted by LINZ – which could include a private security company, council staff, or possibly DOC.

Other updates

5. This version proposes that an amendment be made to the Freedom Camping Act stating that the Act binds the Crown. The Act does not currently bind the Crown, which is a departure from the general principle that the Crown should be bound by Acts unless there is a strong reason for it not to. Following discussions with DOC, we have reached agreement that there are no strong grounds for a DOC officer to need to breach the Freedom Camping Act in order to enforce it, hence our recommendation that the Crown be bound.
6. The revised version also makes two distinctions clearer than the previous draft: that the new national rule will not apply to Public Conservation Land (managed by DOC); and that tents will be outside the scope of the new rule and regulations, with a tent being defined (subject to your agreement in our separate briefing) as any temporary structure not attached to a motor vehicle or caravan.
7. Reflecting feedback from the Department of Internal Affairs and from Councils (via the Responsible Camping Working Group), a separate briefing paper has been sent to you seeking your agreement to establish a fund to support councils during the transition period prior to the full implementation of the freedom camping proposals. If you agree to this, the Cabinet paper will be updated accordingly.
8. Officials will be able to discuss this in more detail if you wish at the officials meeting.