

# Submission to the Ministry of Business, Innovation and Employment

Proposed changes to support  
effective management of freedom  
camping in New Zealand

Auckland Council, 28 May 2021



**Auckland  
Council**

Te Kaunhera o Tāmaki Makaurau



## Mihimihi

<p>Ka mihi ake ai ki ngā maunga here kōrero, ki ngā pari whakarongo tai, ki ngā awa tuku kiri o ōna manawhenua, ōna mana ā-iwi taketake mai, tauiwi atu. Tāmaki – makau a te rau, murau a te tini, wenerau a te mano. Kāhore tō rite i te ao.</p>	<p><i>I greet the mountains, repository of all that has been said of this place, there I greet the cliffs that have heard the ebb and flow of the tides of time, and the rivers that cleansed the forebears of all who came those born of this land and the newcomers among us all. Auckland – beloved of hundreds, famed among the multitude, envy of thousands. You are unique in the world.</i></p>
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**Auckland Council Submission on proposed changes to support effective management of freedom camping in New Zealand**

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**Submission to the Ministry of Business, Innovation and Employment**

**1 Introduction**

1.1 Auckland Council (council) thanks the Ministry of Business, Innovation and Employment for the opportunity to provide feedback on proposed changes to support effective management of freedom camping in New Zealand.

1.2 This submission has been approved by Auckland Council's Governing Body.

**2 Executive summary**

2.1 Auckland is an increasingly popular destination for freedom camping. Most freedom camping in vehicles takes place in self-contained vehicles, and issues are exacerbated by growth and intensification. Many Aucklanders have a negative perception of freedom camping.

2.2 Council manages freedom camping through Local Government Act 2002 bylaw provisions made by the region's previous councils. Camping in tents in public places is prohibited under council's Public Safety and Nuisance Bylaw 2013. Council is currently developing a new regulatory approach to freedom camping in vehicles under the Freedom Camping Act 2011, including potential settings for a general rule.

2.3 The Ministry of Business, Innovation and Employment has asked for feedback on four [proposals](#) to support effective management of freedom camping in New Zealand, to:

- make it mandatory for freedom camping in a vehicle to be done in a certified self-contained vehicle; or
- make it mandatory for freedom campers to stay in a vehicle that is certified self-contained, unless they are staying at a site with toilet facilities (excluding public conservation lands and regional parks); and
- improve the regulatory tools for government land managers; and
- strengthen the requirements for self-contained vehicles.

2.4 This submission sets out council's feedback on the proposed changes. Council:

- does not support Proposal Two, as the proposed exception for regional parks is unworkable, and suitable sites with toilet facilities would need to be clearly defined and designated for the proposal to be effective and enforceable in urban areas such as Auckland
- supports Proposals One, Three and Four, noting their limitations and recommending amendments

- recommends that the government clarify that the Freedom Camping Act 2011 is not intended to be used to manage homelessness, to support public understanding and to guide compliance and enforcement staff
  - notes that transition arrangements are not relevant for Auckland at this time, as council has not yet made a bylaw under the Freedom Camping Act 2011
  - considers that the use of general rules in freedom camping bylaws should be clarified in the Freedom Camping Act 2011.
- 2.5 Council notes that meaningful engagement must be undertaken with mana whenua and mataawaka on any proposed changes and that reduction of negative environmental and public health impacts must be a key consideration of any change.

## Background and context

### 3 Auckland is a popular destination for freedom camping and demand is increasing

- 3.1 Auckland is New Zealand's largest and most densely populated city, and the key port of entry for international visitors. As well as being a popular destination its own right, Auckland is a campervan rental hub and a gateway to other popular holiday destinations such as Northland and Thames-Coromandel. Many domestic and international freedom campers travel through and stay in the Auckland region.
- 3.2 Like many parts of New Zealand however, the supply of suitable areas for freedom camping in Auckland hasn't kept pace with growing demand:
- an estimated 154,000 overseas visitors and 91,000 New Zealanders did some freedom camping in 2019, up from 123,000 overseas visitors in 2018 and 10,000 per year in the early 2000s
  - in 2018 it was estimated that there were 320 freedom camping vehicles on Auckland roads per day in the February peak season
  - Auckland's 11 legal freedom camping areas can only accommodate 93 vehicles
  - overcrowding and illegal camping has become an issue at popular locations.
- 3.3 Although border closures due to Covid-19 will significantly reduce international visitor numbers for the foreseeable future, domestic freedom camping could continue to increase as more New Zealanders, including Aucklanders, holiday at home.
- 3.4 Early indications are that freedom camping numbers were lower over the 2020/21 summer period compared with previous years, but the proportion of domestic freedom campers increased. Despite an overall reduction in freedom camping activity, the number of related complaints rose slightly compared with the 2019/2020 season.
- 3.5 Once border restrictions are lifted, New Zealand is likely to see a return to high volumes of international visitors entering via Auckland, including people wishing to freedom camp.

### 4 Freedom camping can impact other people and the environment

- 4.1 Freedom camping in vehicles is associated with two types of harms:

- *Primary harms*, which are intrinsic even to responsible freedom camping and can only be managed, not prevented: for example, displacement of other users of public space, blocked views, noise and cooking odours.
  - *Secondary harms*, which are preventable, and although popularly associated with freedom camping can be caused by anyone behaving irresponsibly in a public place: for example, littering, vandalism and environmental damage.
- 4.2 Evidence from Auckland and other local authority areas shows that the frequency and severity of primary harms is largely driven by an under-supply of suitable freedom camping areas. Primary harms are much more likely where there is overcrowding, or where sites have not been well-designed to balance competing uses.
- 4.3 In Auckland, most secondary harms are already managed by other legislation and bylaws. Some specific secondary harms, related to environmental damage, health and safety and access are also able to be dealt with through the Freedom Camping Act 2011.
- 4.4 Council is concerned about the level of resource required to implement the Freedom Camping Act 2011 while effectively managing harms. Council supports continued and increased government investment in facilities such as dump stations, and compliance and educational initiatives such as the Responsible Camping Fund. Other tourism revenue or private sector partnership could further support initiatives such as the mapping of appropriate sites and amenities.

## **5 Freedom camping causes problems in Auckland that are exacerbated by growth and intensification**

- 5.1 Research and engagement conducted in 2016-17 as part of the council's bylaw review process identified the following issues associated with freedom camping in Auckland:
- the current undersupply of freedom camping sites leads to overcrowding
  - conflict between campers and other users arises due to overcrowding and designated areas being unsuitable for camping
  - freedom campers can dominate or block shared public spaces, and offensive behaviours by some campers include depositing of waste and excessive noise.
- 5.2 Diverse areas across Auckland encounter different challenges from freedom camping. Central urban areas such as Waitemata, Albert-Eden and Ōrākei already experience high demand for on-street parking, roads, parks, and reserves from Aucklanders, while areas such as Waiheke Island have limited facilities and narrow roading for larger vehicles.
- 5.3 As pressure on public space (and especially open space) increases in intensifying population centres like Auckland, primary harms can cause more widespread community concern than secondary harms. Perceptions of displacement and privatisation of scarce public space can erode social license for freedom camping, even where freedom campers are camping responsibly.
- 5.4 Communities and local authorities across New Zealand have continued to raise concerns about a permissive national policy overriding their ability to determine the best approach for managing the impacts of freedom camping on locally owned public space.

## **6 Freedom camping complaints in Auckland relate mostly to primary rather than secondary harms**

- 6.1 Council received 1479 ‘camping-related’ complaints in the three years to 30 June 2019. Most were about people camping where they shouldn’t (60 per cent) and other primary harms, rather than secondary harms such as littering or antisocial behaviour.
- 6.2 Council received funds from the Responsible Camping Fund for monitoring, compliance, and education to help prevent and manage freedom camping harms over the 2019/20 and 2020/21 summer seasons. Council employs Responsible Camping Ambassadors over the peak holiday period to monitor popular freedom camping sites and inform campers of freedom camping rules. Council’s warranted compliance officers continue to enforce freedom camping rules where required.
- 6.3 Monitoring by Responsible Camping Ambassadors over the last two years has found that the majority of freedom camping in vehicles in Auckland (around 85 per cent) takes place in self-contained vehicles. Camping Ambassadors report that most campers are either already compliant or responsive to requests to comply.
- 6.4 Compliance staff do receive complaints about and/or encounter people staying in non-self-contained vehicles in Auckland due to homelessness. This vulnerable population is impacted by freedom camping regulation, even when there is no intent to use it to manage homelessness. The implications of the Freedom Camping Act 2011 for this community are further discussed at (15) below.

## **7 Auckland Council currently manages freedom camping through a Local Government Act 2002 bylaw**

- 7.1 Following local government amalgamation in Auckland in 2010, Auckland Council inherited a set of freedom camping bylaws made by the region’s previous councils under the Local Government Act 2002.
- 7.2 Council collated these bylaws into a single bylaw to manage freedom camping in vehicles and confirmed this in October 2015 to avoid a regulatory gap. Council intends to replace the operative Freedom Camping Bylaw 2015 before its statutory expiry date of 29 October 2022.
- 7.3 In Auckland, camping in tents in public places is already prohibited under the Public Safety and Nuisance Bylaw 2013, made under the Local Government Act 2002.

## **8 Council is developing a new regulatory approach to freedom camping**

- 8.1 In March 2021, the Governing Body agreed the preferred way forward for freedom camping regulation in Auckland was to:
  - make a bylaw under the Freedom Camping Act 2011 to control freedom camping on land held under the Local Government Act 2002
  - retain the existing prohibition on freedom camping on land held under the Reserves Act 1977 and exclude all reserves from the scope of the bylaw.
- 8.2 Staff are currently developing a new statement of proposal in response to these directives, pending a further decision in May 2021 on potential settings for a general rule for inclusion in a new draft bylaw.

8.3 Council notes there is some ongoing ambiguity around the inclusion of general rules in freedom camping bylaws. In this regard many local authorities have made multiple attempts to find the balance between satisfying national legislative requirements and responding to local needs. Where there is clear justification, council considers general rules are an appropriate tool to manage broad scale and cumulative harms. This should be clarified in the Act.

## **9 Many Aucklanders have a negative perception of freedom camping**

9.1 In 2019 council received 2,711 public submissions and views through local board and Māori engagement on a proposal for a Freedom Camping in Vehicles Bylaw. Feedback identified a range of issues with freedom camping, rather than concern about the undersupply of suitable freedom camping areas which the bylaw had sought to address.

9.2 Key themes from feedback included:

- opposition to a legislative right to freedom camp rather than pay to use camping grounds or other accommodation
- perceived harms associated with increased freedom camping, especially the potential for environmental pollution and impacts on community access and enjoyment of parks, beaches and facilities
- the suitability of allowing restricted freedom camping at reserves (where camping is prohibited by default under the Reserves Act 1977) and popular coastal areas
- the need to ensure camping is prohibited at sites of significance to Māori, especially wahi tapu areas, with the ability add further sites to the bylaw as these are designated
- provision for temporary bans on freedom camping, e.g. in areas under a rahui
- the lack of a general rule to manage the impacts of freedom camping everywhere, including roads, meaning the activity (and associated harms) may be displaced to nearby unregulated areas
- the need to take a compassionate approach to people experiencing homelessness
- the council's ability to monitor and enforce the current or the proposed bylaw within current resources
- the cost to ratepayers of additional compliance monitoring and servicing of freedom camping areas to prevent harm.

## **Response to the specific change proposals**

### **10 Council strongly supports Proposal One, noting its limitations**

10.1 *Proposal One would make it mandatory for all freedom camping in a vehicle to be done in a certified self-contained vehicle, in order to ensure that freedom campers have access to proper toilet facilities at all times.*

10.2 Council strongly supports Proposal One because it:

- shares the government's objective to reduce negative environmental and public health impacts from the inappropriate depositing of toilet waste, wastewater and rubbish by freedom campers.

- agrees that these impacts are more likely to arise from freedom camping in non-self-contained vehicles, where even responsible campers are reliant on the availability of suitable public facilities (day and night).
- agrees that requiring all freedom camping to be done in certified self-contained vehicles would help to reduce these impacts.
- considers including a self-containment requirement in the legislation would provide greater clarity and consistency for campers, the tourism sector, government land managers and the wider public, compared with varying regional approaches.
- considers Proposal One to be a more straightforward option to implement and enforce than Proposal Two.

10.3 Council notes the following limitations with Proposal One:

- mandating the use of certified self-contained vehicles does not guarantee that campers will use their onboard facilities.
- it reduces the accessibility of freedom camping to low income campers due to vehicle rental or purchase costs. Council notes that freedom camping may be the only holiday option or opportunity to experience and appreciate nature for some groups.
- Proposal One does not cover freedom camping in tents, which can also result in the inappropriate depositing of waste (noting that freedom camping in tents is already prohibited in Auckland under the Public Safety and Nuisance Bylaw 2013).
- most public complaints council receives about freedom camping do not relate to whether vehicles are self-contained.

## 11 Council does not support Proposal Two

11.1 *Proposal Two would make it mandatory for freedom campers to stay in a vehicle that is certified self-contained unless they are staying at a site with toilet facilities. Exclusions are proposed for people freedom camping in non-self-contained vehicles on public conservation lands and regional parks, who would not need to stay at a site with toilet facilities.*

11.2 As with Proposal One, Council supports the government's objective to reduce negative environmental and public health impacts from freedom camping and agrees that limiting freedom camping to certified self-contained vehicles should reduce impacts.

11.3 Council does not support Proposal Two, noting concerns with two key aspects:

- suitable 'sites with toilet facilities' need to be clearly defined and designated for the proposal to be effective and enforceable in urban areas like Auckland
- the proposed exception for regional parks is unworkable.

11.4 Council notes concerns in (10) above about the accessibility of freedom camping for low income campers and acknowledges that Proposal Two would accommodate these concerns.



### ***Defining and designating 'sites with toilet facilities'***

- 11.5 A requirement to stay at 'a site with toilet facilities' would not account for higher-density urban and suburban areas in large cities like Auckland, where the location and suitability of such sites would not be evident to visiting freedom campers.
- 11.6 It is unclear how a 'site with toilet facilities' would be defined, but at a minimum this would need to include safe 24-hour access to achieve the policy objective.
- 11.7 Council assumes that 'toilet facilities' refers to guaranteed access to *public* toilet facilities, not access to toilet facilities on private property. Accounting for the possibility that non-self-contained vehicles may have access to private facilities would make compliance monitoring unworkable in Auckland.
- 11.8 Unlike many regions, no 'lay-by' toilet facilities exist for travellers in Auckland and few areas have 24-hour public toilets. Most facilities at desirable freedom camping areas such as parks, beaches and town centres close overnight. There is a need to clarify that the presence of a public toilet does not infer a general camping right everywhere particularly on land managed under the Reserves Act 1977.
- 11.9 In addition to opening hours, in determining the appropriateness of a 'site with toilet facilities' council would need to consider:
- the type of toilet facilities, and whether these would meet the needs of campers (for example many 24-hour toilets in Auckland have time-controlled doors to ensure they are not occupied for long periods, and to prevent anti-social behaviour).
  - the number of toilets available at a given site (for example most 24-hour toilets in Auckland have only one or two all-gender toilets) and whether this would meet expected demand, including by other users of the area.
  - safety for communities and for campers needing to use 24-hour toilet facilities in urban and suburban areas late at night.
  - whether use by freedom campers would conflict with the site's primary use, or result in unsustainable demand to facilities or operational costs to council (for example, it is unclear whether the proposal would include Auckland Transport-managed 'park and ride' facilities<sup>1</sup> which experience high demand at peak morning and evening commuting times).
  - area-specific issues, such as whether parking on grass would be appropriate
  - the maximum distance that people could camp from toilet facilities in urban and suburban areas and still be considered to be 'at' the site.
- 11.10 Most (if not all) 24-hour toilets in Auckland would only be suitable for toileting. The focus on staying at a 'site with toilet facilities' does not account for other activities associated with non-self-contained freedom camping that may have environmental and public health impacts, such as the washing of dishes or clothes, and fire risks from cooking in unsuitable areas.

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<sup>1</sup> Commuter parking and toilet facilities beside train and bus stations.

### ***Proposed exception for regional parks***

- 11.11 There is no compelling rationale for the proposed exception for regional parks.
- 11.12 Council does not accept the stated rationale, that 'normal use' of public conservation land means that visitors to regional parks would be familiar and comply with the traditional 'backcountry code' for remote areas (toileting a safe distance from tracks/waterways and burying waste).
- 11.13 The proposed exception for regional parks is considered unworkable, because:
- council is not convinced that visitors to Auckland's regional parks would be aware of the backcountry code, or if they were, would consider these areas to be 'backcountry'.
  - visitors from outside Auckland may not know whether a park is a local or regional park, especially if arriving at night, which could cause confusion about whether they can legally camp there in a non-self-contained vehicle.
  - many of Auckland's regional parks are ecologically sensitive, or overnight camping would conflict with farming activities. To limit the spread of Kauri dieback disease in certain areas, the use of boardwalks and upgraded tracks is preferred to off-track activities. Where appropriate, gated camping areas are provided with facilities for non-self-contained campers, but there is a fee to camp.
- 11.14 Any improvements to the Freedom Camping Act 2011 must provide a consistent freedom camping approach across all public lands including public conservation land and regional parks, to best protect the environment and improve ease of compliance and enforcement.

## **12 Council supports Proposal Three, noting its limitations**

- 12.1 *Proposal Three would improve the regulatory tools for government land managers by:*
- *introducing a stronger infringement scheme*
  - *expanding the existing powers to seize vehicles*
  - *introducing a regulatory system for self-contained vehicles, and*
  - *allowing local councils to enforce rules on other government owned land.*

*The proposal would not limit or affect existing bylaw- or notice-making powers.*

- 12.2 Council supports Proposal Three because it:
- recognises the need for rules to be appropriately enforced
  - enables higher fines on a graduated scale to recognise more severe freedom camping offences (for example, dumping toilet waste into the environment) in addition to the existing \$200 fine for inappropriate camping in restricted or prohibited areas.
  - agrees that higher fines would enable local authorities to better recover costs of enforcement activities.
  - agrees that vehicle rental companies should be required to pass on any infringement notices to campers who have hired their vehicles and should be liable for non-payment, in the same way that traffic infringements are typically managed.

- is satisfied that people and organisations that undertake sanitary plumbing work on vehicles would be the most appropriate groups to be licensed to undertake and certify self-containment.
- considers that a low-cost database of certified self-contained vehicles by licence plate would enable local authorities to verify compliance more effectively than relying on potentially fraudulent 'certified self-contained' stickers, and this would be inefficient and costly to administer at the regional level.
- accepts that vehicle confiscation is a useful tool for repeated breaches of freedom camping rules, once other avenues have been exhausted.
- agrees that allowing local councils to enforce rules on other government-owned land (when this is operationally practical) would help to ensure harms from freedom camping can be managed effectively within their area.

12.3 Council notes the following limitations to Proposal Three:

- no evidence has been provided that higher fines or expanded powers of seizure would encourage greater compliance, and council considers \$200 is sufficient for low-level offences.
- removal and storage of confiscated vehicles is costly, and costs may not be recovered if the vehicle is unclaimed.
- any regulatory tools should be practicable. Seizure of vehicles can be impractical: for example, a vehicle cannot be confiscated while people are inside it, and the commission of an offence as defined under the legislation would usually require campers to be inside their vehicle at the time.
- any situation where vehicle confiscation would leave a person effectively homeless (subject to payment of a fine) is best avoided.
- an appropriate level of government funding should accompany any wider regulatory tools.

12.4 Council proposes that the following amendments would improve Proposal Three:

- retain \$200 as the standard penalty for low-level freedom camping offences, with the ability to apply higher penalties for more severe or repeated offences (for example, repeated breaches of bylaws or use of self-contained vehicle sites by non-self-contained vehicles) .
- enable wheel clamping of offending vehicles as a more practical alternative (or prior step) to vehicle confiscation. Council considers the threat of clamping is a useful deterrent.
- amend the criteria for use of vehicle confiscation or clamping powers to allow enforcement action after the offence (where a person has already camped for the night), including for repeated breaches of the rules. Currently, action can only be taken when campers are in the act of camping or preparing to camp.
- consider development of a permit or booking system requiring registration to further assist compliance activities.
- ensure that any infringement fines are sufficient to recover the costs of regulation.

- enable fraudulent claims of self-containment to be an offence and enforced by the use of a central register.

### **13 Council supports Proposal Four**

- 13.1 *Proposal Four would strengthen the requirements for self-contained vehicles, including requiring toilets to be permanently plumbed.*
- 13.2 Council supports Proposal Four, as it considers that the proposal supports the government's objective to reduce environmental and public health impacts from freedom camping.
- 13.3 Council's primary role in this regard is enforcing compliance with the government's certification requirement. As such, council does not have a position on the types of toilets or vehicles that should be specified in the standard.
- 13.4 Council notes that:
- approved toilets could be labelled with a sticker for ease of enforcement.
  - requirements for self-contained vehicles should set out the necessary features of the vehicle and their minimum performance, rather than regulating its size.
  - a requirement for a sealable solid waste (rubbish) container could further help to achieve the government's objective.
  - any requirements should be easy to understand, comply with and enforce, and should consider impacts and accessibility for low income campers and Māori. Council supports increased governing funding for assisting low income campers to freedom camp or otherwise experience the New Zealand outdoors.

### **14 Transition arrangements are not relevant for Auckland at this time**

- 14.1 The Ministry of Business, Innovation and Employment has asked for feedback on the need for transition arrangements if changes are made to the Freedom Camping Act 2011.
- 14.2 Auckland Council has not yet made a bylaw under this legislation, meaning transition arrangements would not be required. If any changes to the Freedom Camping Act 2011 are confirmed during 2021, these can be incorporated as part of the bylaw development process, which is expected to complete during the first half of 2022.

### **15 The Act should distinguish homelessness from freedom camping**

- 15.1 The Ministry of Business, Innovation and Employment has asked for feedback on whether there should be clarification that the Freedom Camping Act 2011 is not intended to be used to manage homelessness, and how to ensure that people experiencing homelessness are not further disadvantaged by the Act.
- 15.2 Homelessness is a significant and complex issue in Auckland. If the proposals are adopted, there is a risk that a new, well-publicised national ban on people sleeping in non-self-contained vehicles will cause further stress and stigmatisation for vulnerable Aucklanders.

- 15.3 In the three years to 30 June 2019, up to a quarter of public complaints about people sleeping in vehicles or tents related to vulnerable Aucklanders, rather than freedom campers.
- 15.4 Council does not manage homelessness under freedom camping regulation, and the Governing Body has twice confirmed its intent to take a compassionate enforcement approach to protect people experiencing homelessness in Auckland.
- 15.5 When encountering people camping in vehicles, council compliance officers confirm that they can readily identify people experiencing homelessness. Typically, people living in vehicles involuntarily do not have a converted vehicle (for example with a proper sleeping platform, storage for belongings and equipment for cooking) and have no home address. Compliance staff do not enforce freedom camping rules in these cases, and attempt to connect vulnerable Aucklanders with social services where appropriate.
- 15.6 Council considers that the government should clarify that the Freedom Camping Act 2011 is not intended to be used to manage homelessness, to support public understanding and to guide compliance and enforcement staff. The use of discretion in identifying homelessness by compliance officers must be supported.
- 15.7 Council notes that although unlikely, some people could claim to be homeless to avoid complying with freedom camping rules. Council does not consider leisure travellers and those who choose to live in a vehicle permanently for lifestyle reasons to be homeless.
- 15.8 Recognition of homelessness as distinct from freedom camping, use of discretion by compliance staff, and a continued cross-sector approach to assist people experiencing homelessness would still have the effect of better protecting vulnerable people from further stress and stigmatisation.