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## Supporting sustainable freedom camping

Local Government New Zealand's submission on MBIE's discussion document

15 May 2021

## We are. LGNZ.

LGNZ is the national organisation of local authorities in New Zealand and all 78 territorial and regional councils are members. We represent the interests of councils and lead best practice in the local government sector. LGNZ provides advocacy and policy services, business support, advice and training to our members to assist them to build successful communities throughout New Zealand. Our purpose is to deliver our sector's Vision: "Local democracy powering community and national success."

This submission has been signed off by the local government members of the Responsible Camping Working Group, Steve Chadwick, Jim Boulton, Tim Cadogan and Andrew Turner.

## Introduction

Local Government New Zealand (LGNZ) thanks MBIE for the opportunity to provide a submission on the consultation on freedom camping.

LGNZ fully supports the direction of travel of the proposals. By way of background, back in 2016 the LGNZ AGM passed the following remits, related to freedom camping:

1. The Freedom Camping Act 2011 should be amended to allow any infringement fine to be tagged to the vehicle which is being utilised to cause the offence, thus forcing rental companies/vehicle owners to take some responsibility for the actions of their clients and to collect fines on behalf of enforcement authorities;
2. A change to the Summary Proceedings Act 1957 to allow fines to be instantaneous, thus preventing individuals from avoiding payment of fines by leaving the country during the period where infringements are able to be paid (minimum 56 days from date of issue); and
3. A change to s14(3) of the Camping Ground Regulations 1985 (made under s120B of the Health Act 1956) to allow broader exemptions to the need for provision of camping facilities for those that wish to freedom camp in all areas and not just at "remote" camps.

LGNZ has some concerns that while the adoption of (some of) these proposals will help it is not the comprehensive review and alignment of policy that was recommended by the Responsible Camping Working Group (in order to provide local government with better management tools) and we consider it to be a partial fix. The recommendations of the Working Group to undertake a comprehensive review of the legislative framework remain our preferred option.

The most important change we consider necessary is a strengthening of the regulatory framework with regard to a stronger infringement system (tagged to vehicles) and encouraging consistency across the network of reserves, parks and public land. This should be cost neutral to councils. We also support investment in systems to monitor hot spots as a priority.

LGNZ would like to see a more extensive review of the Freedom Camping Act, alongside a review of the (inter-related) Self-Contained Standards and Campground Regulations. The current review doesn't go far enough. This process has missed a significant opportunity to meaningfully improve the Freedom Camping Act, drive better behaviours and consider alternative, innovative proposals that could better align with the recommendations of the Parliamentary Commissioner for the Environment and the Climate Change Commission's draft advice to government.

## Submission Points

### Proposal 1: Make it mandatory for freedom camping in a vehicle to be done in a certified self-contained vehicle

Councils will have different views regarding Proposal 1, to make it mandatory for freedom camping to be done in a certified self-contained vehicle and LGNZ is unable to endorse it.

If Proposal 1 is adopted nationally, councils should be enabled to prescribe the practice during all or parts of the year, in their bylaw. Councils would be required to provide data to support their case which aligns with the parameters specified for the requirement of a bylaw, eg demonstrate risk to the protection of the area, access to the area and risk to the health and safety of visitors.

We note that an unintended consequence of Proposal 1 may well be that non self-contained vehicles will go to great lengths to avoid being located. However making it mandatory for vehicle-based freedom campers to use a certified self-contained vehicle may also encourage more campers with non-self-contained vehicles to use camping grounds and we support this.

We also note that if Proposal 1 is enacted, it will likely create a need for a significant uplift in enforcement activity. To the degree that the costs are not recovered through infringements, the cost for this will be borne by the ratepayer unless it is subsidised. Proposal 1 would need to be supported alongside a stronger infringement regime, a regulatory system for registering self-contained vehicles and strengthening the requirements for self-contained vehicles.

### Proposal 2: 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

Proposal 2 aligns with the approach taken by many councils' bylaws already. It would need to be accompanied by a strengthening of the regulatory framework. Some sites, even if they provide toilets, are not suitable for freedom camping. Councils need to retain the ability to manage where freedom camping in non-self-contained vehicles occurs, irrespective of a public toilet being available at that location.

A significant advantage of this proposal is having a consistent set of rules across the country which should be more straightforward to communicate and easy for freedom campers to understand.

Changing the legislation as per Proposal 2 would mean that councils would not have to justify restricting freedom camping to only self-contained vehicles at locations based on the criteria in the Freedom Camping Act. Councils

would no longer be open to legal challenge on its decisions to restrict the types of vehicles that are able to use some locations.

LGNZ is concerned that regional parks, conservation land and other public land (including LINZ land) should be included in this proposal as it will achieve consistency.

We also support this proposal covering freedom camping in tents. The impact on the environment of freedom campers in tents toileting in the outdoors is no different from the impact of freedom campers in vehicles doing this.

### Proposal 3: Improve the regulatory tools for government land managers

LGNZ agrees with the proposal for a stronger infringement scheme and a regulatory system for self-contained vehicles. LGNZ specifically supports allowing any infringement fine to be tagged to the vehicle which is being utilised to cause the offence. LGNZ also sees benefits from allowing councils to enforce rules on other government-owned land but we have some concerns about the associated costs and these will need to be addressed. If councils are to undertake freedom camping enforcement work on Crown land there should be an appropriate level of funding from the Government to pay for that service and it should be opt-in by councils.

LGNZ supports the proposal to require rental vehicle companies to pass on fines to the people that have hired their vehicles and to amend the Act to ensure those who rent vehicles are held responsible for their actions. LGNZ also supports strengthening the framework by introducing a new infringement for those vehicles which fraudulently claim to be certified self-contained.

LGNZ has advocated for some time that a nationwide system for infringement fines needs to be established. For a nationwide system to operate, a technological solution is required, which might involve infringements being entered into a national database. Some years ago LGNZ set up an infringements trial with rental vehicle Operators Jucy and THL, who worked with Thames-Coromandel and Queenstown Lakes District Councils. This trial illustrated how problematic the current framework is. When a vehicle is returned, Jucy or THL checked to see if any infringement notices are recorded against it; if there are, the driver either pays it direct to the council, or the rental vehicle operator collected that fee.

The hirer was given the option to clear the infringement straight away and avoid an administration fee. They were directed to the council website where they can pay the fine. If the person pays straight away when the vehicle is returned they do not pay an administration fee and if they refused to pay they were subject to a possible administration fee. The company passed their details onto the council and the council pursued the fines.

The trial was very manual, with the rental vehicle operators having to check directly with the two councils whether there are outstanding fines on their vehicles. This is clearly not possible for multiple councils but was a workaround to try to get better payment of infringement fines across two districts with high numbers freedom campers.

LGNZ supports an increase in the fine as increased fines are good for deterrence. Currently, the infringements are not enough to cover some districts in their entirety; A fine of \$500 fines would make it very clear that non-compliance is not tolerated, whilst covering costs of enforcement appropriately.

LGNZ has some concern about the proposal to enable vehicles to be confiscated. A confiscation provision will run risks for the poorer people in our communities. Confiscation in particular can impact on people's ability to work while their vehicle is impounded. We have also identified a problem with the wording which states: "*Requirements relating to the confiscation of vehicles which frequently break freedom camping rules*". The risk is that someone buys a vehicle whose previous owner broke the rules and ends up having it confiscated. Property confiscation rules should relate to the behaviour of the owner (not the property).

Clamping has been effective in some districts and would be preferable to confiscation, with a release fee of \$500, payable prior to vehicle being released (on top of infringement). Locations for clamping need to be in places where a reasonable level of service can be achieved.

Tents are a challenge as they are difficult to enforce and infringe, given a lack of registration plate. They often pose a Health and Safety risk at freedom camping sites shared between tents and vehicles.

There is an unavoidable interface between genuine freedom camping, people choosing to sleep in their cars (eg tradespeople on short term contracts in the district avoiding high accommodation costs) and homelessness. In light of this, LGNZ recommends that freedom camping is defined as an activity conducted by people visiting the district for recreational purposes only for a temporary period. Workers living in their vehicles and homelessness should be addressed as socio-economic matters via other channels, regulatory mechanisms, support systems and legislation.

#### Proposal 4: Strengthen the requirements for self-contained vehicles

LGNZ supports improvement to the self-contained standard, but this needs to be effectively managed and enforced at a national level. LGNZ has previously advocated that better administration and oversight of the certification standard needs to be put in place so it is clearer to comply with and enforce. Currently there is no administering authority for the standard. When first in place, the Ministry for the Environment was the administering authority but when the decision was made to relinquish this, no replacement was put in place.

An administering authority is needed to oversee the authoring environment and those who certify that a vehicle is self-contained. We understand the authority must be a regulatory body. The body will have the power to determine who can issue certificates under the Standard, settle interpretation issues, and any disputes. Consideration should be given to NZTA being the appropriate regulatory agency to be the administering authority.

We support a Warrant of Fitness (WOF) type approach with regular mandatory checks, a national register and a register of those able to certificate vehicles.

LGNZ holds the view that the type of toilet doesn't matter – it's the way it is used (or not) and the Health and Safety issue. Any strengthening of the standard should ensure that self-contained vehicles have a fixed toilet and privacy as a way of ensuring that the toilets are actually useable with sufficient tank space to hold waste for a considerable period of time. These requirements would provide for some flexibility while ensuring the objectives of the standard are met.

## Camping Ground Regulations

LGNZ in the past has advocated for a review of the camping ground regulations. A review of these Regulations is long overdue and would enable camping grounds for freedom campers to be established on private land and council land. We appreciate this is complex but it is a matter that has long been identified by local government as requiring attention.