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Responsible Campers Association Inc, submissions on Minister Nashs' freedom camping proposals. 16th May 2021

## Freedom camping in NZ?

Please enjoy your stay

While freedom camping may be free from cost, it is not free from responsibility

Please respect our environment by using rubbish bins and toilets Welcome To New Zealand

Please enjoy your stay

Please be advised the following penalities are enforced in New Zealand;

Littering - up to \$2000

Toileting in our natural environment -up to \$10,000

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#### Executive Summary

Responsible Campers Association Incorporated, (RCAi) appreciate the opportunity to provide feedback on Minister Nash's proposal regarding this government's approach to freedom camping in the future.

After consultation from both members and our committee, RCAi cannot support **any** of the proposed options put forward by the Minister.

The supporting document discusses the reasons as to why, however, to summarize: RCAi do not believe that the proposed changes will in fact address the perceived issues.

RCAi believes that campers with a means to retain waste on board, are "responsible campers" <u>and</u> that it is not a certification system that will ensure or bring about responsible camping. It is our belief that education across the industry including end users (campers) is where the focus should be.

With that in mind, RCAi proposes that prior to <u>any</u> changes, MBIE establish a working group specifically tasked with the on-going management [and issues] as pertain to freedom camping in NZ.

The working group could engage an independent entity to carry out a detailed inquiry with a terms of reference that RCAi and other groups could offer advice and input into.

With our network of members as well as affiliated groups, the ability for RCAi to reach all kiwi campers is broad, and would no doubt provide crucial data to enable informed decisions and we would be happy to support such an initiative. A large majority of our support base (over 90%), would support the need for an enquiry into Freedom Camping in NZ.

## <u>About RCAi.</u>

RCAi was created in January 2017, out of concerns some Councils were using their Freedom Camping Bylaws against Homeless persons living in cars.

It quickly progressed to a Freedom Camping lobby and advocacy group, when the state of freedom camping became more clearly understood, many of the initial group were also freedom campers.

Currently we advise, support and advocate for circa 250,000 freedom campers (as defined by the Freedom Camping Act 2011 - FCA).

Our achievements include the development, alongside a number of stakeholders, of the 'Responsible Campers Accreditation program" which was launched in March 2019. This program is inclusive, being available to everyone even non-campers. Its emphasis is on education which is freely available online to everyone, and does not require even an email address to access. After education, persons may choose to answer a 25 question multi choice quiz and receive, on payment, documentation to show they are aware of the expectations and principles of being a responsible freedom camper. This documentation includes a windscreen card, a bumper sticker and wallet card, all of which change colour yearly, but remain valid for 2 years (same as the actual accreditation).This program was informally recognized by 25% (approx), of Councils in little more than a year. For comparison the NZStandard 5465:2001 is used by (approx) 33% of Councils after 30 years. The RCAi program is included in several Councils 10 years plans.

Our March 2018 report into freedom camping, was delivered to numerous Government Departments, SOE's, and Councils by way of an online document link. Additionally 50 hard bound copies were delivered to numerous Ministers at Parliament. This report was the result of surveys aimed at freedom campers, and LGOIA requests.

The report highlighted the need for 'education' at a time when no one else was considering that need. It was RCAi belief, that it was our report which lead to recommendations from the Responsible Camping Working group set up by Minister Davis to educate, which then lead to the Camping Ambassadors program by some Councils and the Tiaki Promise campaign set up by Tourism New Zealand, to mention just some subsequent education.

That report also highlighted a number of other issues, many of which remain unaddressed and of concern to this day - one being the use of the NZStandard by Councils etc which has been subject to investigations and reports during the year 2020.

Another being the apparent inability for stakeholders to recognize differences between 'certified' self containment -CSC, (NZS;5465:2001) and self containment-SC, (the basic ability to retain and manage waste) which many camping public are aware of and differentiate between when completing surveys, research etc. This creates a falsehood around figures to do with compliance with the voluntary NZStandard.

Additionally in May 2019, RCAi promoted via Tourism Industry Aotearoa, that NZTA build and maintain toilets alongside major state highways in out of town areas. This is what happens in many Countries overseas, with the Roading Authorities being responsible for providing facilities out of towns, not Councils.

RCAi understands that the Toilets built just out of Kaikoura as part of the roading rebuild, came about from our recommendation, sadly we understand there is disagreement between Kaikoura District Council and NZTA about who will be responsible for the long term upkeep of them.

#### Minister Nash's Proposals

RCAi can not support any of the proposed options put forward by the Minister. The need for solutions appears to be based on a perception of problems but lacking any real evidence -- an issue also highlighted in our 2018 report.

While RCAi do not deny there are some sites where there are problems, those problems need to be addressed by the supply of facilities, such as provided by Kiwi-camp.

While section 11(2) b of the FC Act allows a Council to act on 'perceived' problems, we respectfully submit that a Minister must provide real evidence to a standard that will withstand the highest levels of Legal Scrutiny to restrict a traditional right.

There is little doubt that Freedom Camping is a traditional right dating back to the first settlers in New Zealand.

Issues of proportionality must also be addressed by the Minister when considering options to deal with an 'evidenced' problem.

Many responsible freedom campers across all modes of camping, would deny the problem is anything as bad as is reported by media, who normally only report on negativity based, on often hearsay reports from NIMBY's, some accommodation providers, and indeed in some cases - those who would normally be considered to be supporters of freedom campers ( a case of 'with friends like that who needs enemies'?). Indeed many complaints about freedom campers are advanced by groups with vested interests in the outcome.

The comment by the Minister about supporting Accommodation providers (Holiday Parks particularity) is short sighted. Research often shows that money saved by freedom campers is spent on activities and attractions - a core need for the survival of many areas and indeed those very accommodation providers. Without attractions and activities what would attract visitors to an area and supply customers for those accommodation providers? Support of Holiday Parks and other accommodation providers is not sufficient reason under BORA, or the Freedom Camping Act, to restrict a traditional 'right'.

Many responsible campers often report cleaning up rubbish left by others, particularly those identified as locals. Our own survey identified those littering as locals in 67% of cases.

#### Proposal 1

This proposal seeks to make all vehicle based freedom camping done in vehicles which are Certified Self Contained (CSC) as required by the current voluntary NZS;5465:2001.

Currently there is, after 30 years, no evidence that the standard has made any one responsible. Claims that it has, are usually promoted by groups with a vested interest in the NZStandard, who often promote it to Councils and others as the answer to their Freedom Camping woes - it fails to achieve those goals.

At best, the NZStandard can only "assist" a camper to camp in a responsible manner -BUT only after the personal decision has been made to do so, That decision is the same for someone in a \$10 pup tent, as it is for someone in a \$2.5 million RV.

To understand the expectations and principles of freedom camping requires first and foremost 'education'. There is no point in promoting facilities in RV's when zero education is provided.

Our own research suggests that CSC suits less than a quarter (24.81%) of freedom Campers using RV's / motor vehicles to freedom camp. From the total respondents, 68% considered the non-suitability of the Standard for them as major. (7.11% consider the non-suitability 'minor')

Many consider the NZStandard a dinosaur, as there are many far better and practical options than those in the Standard, which has not had a real over haul in over 30 years.

Many who freedom camp as a sideline to other activities and using vehicles for support, often taking place for a night or 2 (divers, fisherman etc), ask why they need to be CSC for 3 days - likewise a large amount of the sample were people who throw a mattress in the back of the work van for a week end or holiday - a long held kiwi tradition. There also remains the issue of locals simply wanting a night down the beach.

Many of those that answered, also stated they were only CSC as it was a requirement of their club membership (NZMCA), this appeared irrelevant to the way they answered with equal amounts (as far as could be determined) answering that it suited them, as answered that it didn't.

One also has to consider the facts - 68,000 plus, are considered as certified self contained - of those (going on the recently claimed 104,000 NZMCA members) it is not unreasonable to consider that 52,000 are certified as a club rule - that leaves 16,000 plus. Of the balance, RCAi understands there are an estimated 6,000 rental

campers on the road in New Zealand, however it is also widely known that many Government and other websites incorrectly stated that you had to be certified self contained to freedom camp in New Zealand, a very incorrect & misleading statement. One can therefore consider a large number have been incorrectly advised and have sought CSC under false pretenses.. (RCAi actively works to have such statements removed and a number of Government and industry websites have removed such statements when requested by RCAi).

RCAi has always considered that those that identify as self contained (the basic ability to retain waste), are the most responsible campers of all across the board, - being self contained to manage waste and therefore protect the environment, - not certified as to meet some club rule or due to being misled into the need for certification.

In the opinion of some stakeholders and freedom campers, it appears that being CSC is often used as a cover or excuse for irresponsible behaviour, i.e. "we are certified self contained we do not do engage in irresponsible behaviour" - while down the road, while no-one is looking they empty waste tanks and inappropriately dispose of rubbish.

Meantime one of the biggest complaints we hear from non-toilet equipped responsible campers, is that the big flash glamping RV's are often camped right outside public toilets, as it is (in the complainants opinion), that their owners do not like to lower themselves to empty their own black (sewage) waste tanks. This is a very common complaint and is often quoted along side comments about those in Glamping RVs, lack of care or outdoor experience, thinking having facilities in their RVs to be certified makes everything alright, even without any education.

This proposal also suggests there would be exemptions to the requirements to be certified self contained i.e. Homeless people in cars etc.

As RCAi notified Minister Davis when the working group made suggestions of 4 different camp zones, the ability to clearly define who is and who isn't exempt will always be clouded, -for example, if a person who has had an disagreement with their partner and been kicked out and/or taking time out considered to be homeless? Medically impaired persons, truckies, those locals simply wanting a night at the beach etc..... Are overseas visitors considered homeless simply by the fact they are in a strange Country with out a permanent home?

The only way to avoid trying to define a line is to enact rules that every freedom camper as defined by legislation (Freedom camping Act 2011) are expected, and can adhere to, including homeless people in motor-vehicles etc.

RCAi notes that the current exemptions as provided under section 5(2) of the FCA are not working well, with RCAi hearing of at least 10 cases a week of fatigued

drivers being fined under the FCA. To clarify, we expect a number of reports are repeats of other reports, however we expect the number of actual offenses to be 2-3 per week. In the past 12 months, RCAi has advocated on behalf of 6 fatigued drivers with all, but one case being withdrawn by the Council concerned. The remaining case is set down to be heard in Nelson District Court on 3<sup>rd</sup> June 2021.

Unfortunately cases such as this, demonstrate the inability for exemptions to work as expected and often lead to hostilities between alleged freedom campers and Councils / enforcement officers.

## Proposal 2

This proposal requires all freedom campers - including those in tents, to be certified self contained or stay at a site with toilets.

RCAi suggests this proposal is extremely short sighted and fails to account for many freedom campers who have no option but to freedom camp, and who can not practically attend to specific sites at night.

### This group is the majority as defined by the FCA.

It includes Cycle tourists, water users (camping onshore at night), Fisherman, Divers, Trampers, Walkers, Adventure skiers, and many other outdoor recreationists, who freedom camp as part of those activities. The common belief that these activities only occur in the back country is misplaced.

Estimates to the cost to meet the requirements of NZStandard are grossly underestimated. Speaking to businesses that undertake such work, they generally feel even a very cheap budget conscious conversion to meet the requirements (not including other equipment like beds etc) would be at least \$1500. For a DIY handyman who is resourceful they may get away with the bigger estimated cost of \$800 but it would take a lot of resourcefulness.

By way of comparison a basic set up, to retain and manage waste to the owners requirements can be achieved for as little as \$200. It need NOT cost the earth to camp responsibly, and to demand that people meet the requirements, often seen as being a RV clubs own NZStandard, is absurd.

RCAi suggests this proposal would be opposed by no less than 100% of real outdoors persons, unless they have failed to properly consider or understand the implications of such a proposal..

#### Proposal 3

This proposal seeks to strengthen the regulatory tools for Government land managers.

Lets get one thing straight to start with, they are managers of public land not government land. As such the public have a right to be on that land unless one of the reasons given is meet;

- 1/ Protect the area
- 2/ Protect access to the area
- 3/ Protect the health and safety of those visiting the area.

While RCAi would normally support the increase of Fines and other regulatory tools, at this time we have zero faith in Councils and other stakeholders abilities to properly interpret the legislation we currently have.

Even issues around the strengthening of NZS;5465;2001 are unsupported for the same reasons given previously. The main promoter of NZS;5465:2001 appears to be the main offender when issues around compliance and incorrect interpretations of the rules are concerned, often releasing details to their own testing officers (SCO's) about which rules they can ignore. By the same token, a random sampling of 60 check-sheets hosted online by the same organization, revealed a non-compliance rate in excess of 90% but certificates were issued anyway. RCAi understands from TIA, that that figure is about the same as a Council in the South Island found when they went beyond checking certificates and actually checked vehicles.

Giving any legal status or establishing a regulator for the NZStandard is doomed to failure. It is already considered to be a \*\*\*\*\* Standard (\*\*\*\*\* being the abbreviation for a RV Club). The backlash against that club is massive with many freedom campers considering they have an agenda to drive the responsible campers of New Zealand from the best areas, to enable more 'exclusive' use of those areas by its own membership.

# Unfortunately the proposals put forward by the Minister strengthen the belief of many responsible freedom campers in that regard.

RCAi considers that all any of these proposals will achieve is civil disobedience. RCAi notes that club is the sole representative of freedom campers in the Government appointed Responsible Camping working group and take a leading authoritative role within that group, with little opposition or alternatives being advanced from other members of that group and therefore their own long held policies (or as some would say 'agenda') being advanced unopposed. Confiscation of peoples' vehicles which could be their homes, or only transport to attend work, are also fraught with danger if relying on Councils interpretation of legislation.

## <u>Fines</u>.

Much has been said about fines and the amount that go unpaid.

Lets look at some of the issues particularly as they relate to overseas tourists and the logistics of collecting fines from Rental Companies.

From MBIE research, it is stated that the average length of time that overseas freedom campers stayed in NZ, was 46 days (2017/18).

The time to pay an infringement once issued is 28 days, if not paid -another 28 days is given to allow for non-receipt of original infringement etc.

If a person writes to the issuer within either of these 28 day periods to deny or defend the alleged offence and the Council does not accept the explanation, the alleged offender can then request a Court Hearing, however under Schedule 2 (part 2) of the Freedom Camping Act, a Court hearing can not be applied for until during the reminder period i.e. the 2nd 28 day period.

## Remember the average stay time of 46 days? ...

I have spoken to the Justice Dept, and while no official figures were available, the operator considered that 2 months would be the minimum wait time for an infringement hearing at District Court level.

So we are currently looking at 88 days as a minimum time to defend an infringement - nearly twice the average length of time overseas tourists stay in NZ while freedom camping.

Currently there is zero requirement for Councils or infringement issuers to even communicate with an alleged offender after receiving an explanation - nor is there any requirement for them to issue Court Proceedings within a set time.

RCAi are currently involved in a case where an explanation was provided to the Council concerned on 26th February, the alleged offender has heard nothing since. In another case an explanation was provided with the Council concerned not accepting the explanation and making it very clear they shall commerce Court proceedings, however the alleged offender has been waiting for the reminder notice to request a hearing since 21st March.

Issues around BORA / Human Rights are rife when attempts are made to extort money from alleged offenders prior to the availability of a Court Hearing to defend alleged offenses.

While some issues could be addressed easily, i.e. removal of the need to wait for the 2nd 28 day period before the ability to request a hearing and a requirement

for Infringement issuers to communicate with alleged offenders in a timely manner, the major problem is the time for a Court Hearing should an offence require it. Given the amount of Council Bylaws that are non-compliant with legislation and/ or Bill or Rights - consideration has to be given to how to address this prior to allowing Rental Companies to charge hirer's Credit Cards for unproven offenses.

RCAi was shocked to learn the process required of Rental Companies to pass infringements on to the vehicle drivers, is the same as for individual. This process is time consuming and at the best of times and Rental Companies should be able to simply provide the Council / enforcement agency with a copy of the Rental Contract in order to fulfil; I that requirement for any infringements / traffic offenses.

## Will allowing rental companies to collect fines, drive people away from usually well equipped rental campers in preference of buying a cheap ill equipped vehicle?"

## Proposal 4

Proposal 4 relates to strengthening the NZS;5465 and makes a number of 'assumptions'. The first being that the minimal use of camp toilets in smaller - often eco-friendly, campers, is some sort of evidence that the users of those campers are somehow irresponsible and using the roadside or bush to toilet. Not even the Parliamentary Commissioner for the environment (Mr Upton) jumps to any such assumption.

## \*Nothing can be further from the truth.

While users of smaller vehicles "MAY NOT" not use their camp toilets as much, they are often up to pace with alternatives solutions. These may include the use of she-wees, or Unisex wee containers. Often, as these vehicles are more like cars to drive, are therefore more easily able to go to a public toilet if required, and more likely to be used by travelers rather than campers. (*Clarification.- Travelers in this respect are campers who travel on a daily basis, rather than staying for days in one camp site*).

The use of any type of toilet or alternative is to be applauded and promoted, <u>not</u> punished. For many outdoor people the use of, or ability to even carry a camp toilet is impractical, ie Cycle tourists, Trampers, Water users etc. However the ability to carry and use other alternatives is practical.

Smaller camping vehicles is part of the growing trend towards greener more ecofriendly vehicles worldwide.

For too long the regulatory response to smaller camper vehicles often used by younger campers has been skewed by those that represent the older, grey haired, retired fraternity in their flash RV's. In particular RCAi notes the comment made in the 2016 DIA commissioned Freedom Camping Situational Report;

#### "Much of the available evidence puts forward the point of view of one group of campers who tend to be older New Zealanders in larger self-contained vehicles, so called grey nomads'. This group is part of a trend towards 'glamping' valuing luxury as well as independence and an outdoors experience. Advocacy on behalf of this group may have skewed the debate and regulatory responses against another group of campers - so called 'vanpackers' who tend to be be younger and are more likely to use smaller non self-contained Vehicles"

This issue was highlighted in RCAi's 2018 report, and remains unaddressed to this day, and is still creating the same problems as it was 5 years ago, as evidenced by these proposals.

RCAi also makes note of the 'assumption'; that a certified self contained camper is required to have a shower in it. RCAi suggests this is one of the most common reasons given, as to why a small RV can not be self contained even when displaying certification.

Suggestions that those in larger RV's tend to spend more money in smaller communities is unwarranted. For the most part, they travel from home equipped with all the food and other daily supplies required , whereas the smaller RV's do not have the luxury of excess storage and therefore tend to spend more in other communities.

## RCAi suggestions to more forward

RCAi has always been proud of its pro-active stance to issues around freedom camping. Our Accreditation program was a direct example of being 'pro-active'. To this day we remain the only private organization freely providing education for freedom campers, payment for accreditation supports that with any and all profits being returned as education.

Therefore we would not be "RCAi", if we did not provide some suggested solutions to the issues.

- 1/ NZS;5465:2001 should be limited and mandatory for the rental camper fleet only. RCAi understands that some rental campers currently are Uncertified and rented to those wishing to stay at Holiday Parks. We recommend that all rental campers need to be certified, no alternatives or other options. It would be a requirement of COF inspections that said vehicle had a current Self Containment Certification. The NZStandard may require some minor tweaking to achieve that.
- 2/ That the NZS;5465 is NOT applied to private vehicles in any shape or form, that would exclude any ability for Councils etc to issue infringements for failing to display current certification. - This suggestion could be further strengthened by;...
- 3/ That any freedom camper camping further than (250?) metres from a public toilet has to be able to demonstrate to any enforcement officer so requesting during reasonable hours, that they have a camp toilet or 'acceptable alternative' they use for toileting. Acceptable alternatives being open as to type and could include wee-shes, unisex wee bottles, boom toilets, poo tubes etc. (as a side note, RCAi research revealed that 33% of freedom campers had no issue with using a toilet in a confined space in front of their partners). By placing the onus on the persons camping to demonstrate a toilet this removes any potentially unlawful searches by enforcement officers. Demonstration could be by way of a cell phone photo taken at the time of the request and shown to enforcement officers, rather than a need for officers to enter a private vehicle if need be. Another option could be the display of a 'toilet equipped' card as provided by RCAi, while we acknowledge the potential for abuse of that. We acknowledge some RV clubs would require their members to be Certified Self Contained due to conditions of exemptions to Camp Ground regulations 1985 as well as their Resource Consents. That can be handled by said clubs at a 'club level'.
- 4/ RCAi would again, promote the use of signage on the way out of towns, stating the approximate time and distance to the next 'open' public toilets. RCAi notes many public toilets being locked at night due to vandalism etc, a situation often prevented by the presence of freedom campers.

#### Scenario example.

Bruce has a large Jumbo Toyota Hiace which he uses during the week for deliveries for his online store.

It is unreasonable to expect Bruce to fit tanks, sinks etc to his van in order to be certified self contained due to the main use of the van during the week. Due to having dogs Bruce is often not able to source alternative accommodation, so places a mattress in his van in a Friday night and a camp- toilet (\$100). This is a common activity of kiwis.

Bruce does not often cook in his van preferring to eat at Restaurants, however he does have a 10 litre water container (\$20) and a camp stove (\$20) which he uses to brew coffee. He boils only what water he requires therefore keeping waste to a minimum and ensuring the best economical use of his small gas cannisters.

He washes his coffee cup using a wet wipe, (\$1 packet) which he disposes off in his recycled rubbish bag (\$2), which he also uses on the rare occasion he does cook in his van and to wipe out his dogs feed bowls. He does have a 10 litre fuel container (\$15) and funnel (\$3) to use for grey water if needed. In 3 years its main use has been as a wee container, while his camp toilet has been used once! As a daily traveler he uses public facilities mostly for bowel movements.

Bruce has everything he needs for a week end away of 2 nights. He uses a similar set up over longer breaks of several weeks which he finds to be sufficient as he travels every day or 2 and is therefore able to dispose of waste and get supplies as required.

Bruce is an accredited responsible camper and carries a small spade to use in an emergency if needed, but acknowledges that as an accredited camper not in the back country, that use would only be if case of an Earthquake or similar event.

#### Samples;

Rotorua District Council has freedom camping signage stating self containment certificates have to be issued by NZMCA. They are not the only issuer, but this demonstrates the lack of understanding from Councils.



wish you a pleasant visit here in Rotorua - New Zealand's Coolest Hot Spot.

Christchurch City Council makes comments regarding onboard facilities approved by NZMCA - noting there is no NZMCA standard, so doubt this would stand up in a Court of Law.



Even Christchurch's definitions of Freedom Camping are incorrect as provided at this link; <u>https://www.christchurchnz.com/explore/getting-around/freedom-camping-in-canterbury?fbclid=IwAR1xvoBGWjAETjBNhOnILKEOhnoVdCbnaBpB9MqC\_DtiDJWk</u>1BjxNqOLmOE

These samples demonstrate the need to sort out current issues surrounding freedom camping prior to even considering enacting any other restrictions.

### As a final note,

RCAi would support and promote, the need for an inquiry into freedom camping in New Zealand. We believe the current public perception of freedom camping is unwarranted and largely due - NOT to freedom campers, - but to media expressing the negative views of NIMBY's and accommodation providers. At times RCAi would suggest that those that are held up as freedom camping authorities, have by their own actions damaged the social licence of freedom campers to operate.

The only way to get to the bottom of the shambles we currently have, is to investigate by way of an inquiry, what has gone on particularly over the past 10 years. RCAi believes the expose of any such inquiry would shock many persons.

Once an inquiry has established what has occurred, RCAi would suggest a way forward to address those issues and therefore reestablish the social licence of freedom camping. RCAi already has suggestions of how that would be best achieved formulated.

A sample poll, run thru our Social media groups, showed 94.5% support of such an enquiry with 4% not supporting and 1.5% unsure.

This submission version 1.2, includes several corrections up to 17<sup>th</sup> May 2021 @ 8.30am. These corrections may not appear in earlier versions.