

Supporting sustainable freedom camping in Aotearoa New Zealand

A Submission to the Ministry of Business, Innovation and Employment
May 2021



What is Taituarā?

Taituarā — Local Government Professionals Aotearoa, formerly the NZ Society of Local Government Managers (SOLGM), thanks the Ministry of Business, Innovation and Employment (the Ministry) for the opportunity to submit on the consultation, Supporting Sustainable Freedom Camping in Aotearoa New Zealand: Proposed changes to support effective management of freedom camping in New Zealand (the Consultation).

Taituarā — Local Government Professionals Aotearoa is a professional society of approximately 875 members made up of local government Chief Executives, senior managers, and council staff.¹ We are an apolitical organisation that can provide a wealth of knowledge about the local government sector, and in particular knowledge of the technical, practical, and managerial implications of legislation and policy.

Our vision is:

To enhance professional local government management, leading staff and enabling communities to shape their future.

Our primary role is to help local authorities perform their roles and responsibilities as effectively and efficiently as possible. We have an interest in all aspects of the management of local authorities from the provision of advice to elected members, to the planning and delivery of services, and other important support activities such as election management and the collection of rates.

¹ As at May 2021.

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Part One: General Comments

The Consultation, Supporting Sustainable Freedom Camping in Aotearoa New Zealand, proposes strengthening regulation by adding central government controls in addition to the local authority controls. One of the purposes of local government is to promote community well-being. That includes the impact that tourists have on our environmental, cultural, social and economic well-being.

Taituarā supports citizens and visitors enjoying our countryside. Some local authorities have introduced bylaws and made regulatory innovations over recent years to achieve major freedom camping improvements, decrease complaints and achieve successful outcomes. Two councils have won Taituarā Local Government Excellence Awards® with their freedom camping initiatives². Those who achieve a high rate of compliance also experience a large reduction in infringement fines which, in turn, affects the funding of programmes. Resources and sustainability are important questions for the ongoing regulation of freedom camping.

Local authorities need tourism to be environmentally sustainable, culturally respectful, to not spread diseases from human waste and to provide economic gains. Taituarā supports having the right amount of effective regulation which achieves balance in these well-beings.

There are cultural differences between Kiwis and international visitors about the provision and use of toilets. Interestingly, data from the Consultation³ shows that 96% of domestic Kiwi freedom campers use toilets in their self-contained vehicle as opposed to 28% of international tourists. The study used a self-contained vehicle standard for both groups.

Tiaki promise⁴ is an initiative designed to educate visitors to care for New Zealand, our home, to care for the environment and leave no trace, to show consideration for everyone and respect our culture. This educational programme is a response to tourism and the increased problems of increased tourist numbers.

This submission focuses upon matters that Taituarā considers will assist the Government to improve trust and confidence in the regulation of freedom camping.

² South Taranaki District Council. Taituarā's Regulation and Policy Excellence Award 2019

https://taituara.org.nz/Article?Action=View&Article_id=151

Grey District Council. SOLGM Policy and Regulatory Development Excellence Award 2016 – Project Freedom Camping

³ Consultation document page 13 <https://www.mbie.govt.nz/dmsdocument/13853-discussion-document-supporting-sustainable-freedom-camping-in-aotearoa-new-zealand>

⁴ <https://tiakinewzealand.com/>

Our submission supports some parts of the proposal, and where differing councils take differing approaches about their support of whether non self-contained freedom camping should be permitted, we elaborate on the relevant policy and regulatory matters.

In this submission we support the proposals to improve the tools for regulators and a central register for certified self-contained vehicles for local authorities to access. We support having a central government regulatory body with the authority to issue compliance certificates.

We support that the status quo remains for local authorities to restrict or prohibit freedom camping through bylaws or notice making powers.

Local authorities need a number of strategies to work with people camping long-term on public land. Officers need to find out what their situation is, whether homeless or freedom camping lifestylers. The issues with both groups are complex. Both of these groups can require considerable council resources to resolve the community impacts they bring. We recommend that the interpretation of freedom camping clearly state that those choosing to live permanently in vehicles or tents on public land, because it is their preferred lifestyle choice are defined as freedom campers.

We note that large multi-national companies, such as Google, create regulatory problems for local authorities by promoting “freedom-camping sites” which are prohibited sites. Google does not respond to council requests to take down misinformation, therefore there needs to be Governmental regulation of large multi-nationals.

Finally, we recommend that the updates to the legislation provide a workable, nationally consistent freedom camping approach across all public land including regional reserves and conservation land, for the purposes of environmental sustainability, increasing the understandability of the regulatory regime, preventing unintended consequences, and achieving consistent regulation across New Zealand Inc.

Part Two: Recommendations

If proposal 1 is the Government's preferred proposal (only certified self-contained vehicles permitted) we recommend that:

1. Freedom tenting be excluded from the self-containment provisions:
 - a. to avoid the unintended consequence of increases in human waste dumping due to growth in tenting numbers, (there are no real barriers to buying cheap tenting equipment),
2. there be infringements to dis-incentivise non-compliant vehicles from freedom camping,
3. there be central government funding to increase the number of dump stations to prevent illegal dumping of human waste,
4. that campgrounds provide dump station infrastructure commensurate with their self-contained vehicle accommodation,

If proposal 2 is the Government's preferred proposal (certified self-containment not required at sites with toilets) we recommend that:

1. there be clarity that only designated sites with public toilets can be used for freedom camping, and that the presence of a public toilet does not infer camping rights (e.g. sports grounds, public carparks),
2. there be a clear workable definition, which works in different scenarios, of what constitutes a freedom-camping site, other than just being near public toilets,
3. the Responsible Camping Fund be continued and increased as necessary to support the legislation changes:
 - a. for freedom camper ambassadors,
 - b. for the education of domestic tourists,
 - c. for education targeted to international visitors about the expectations and regulations for freedom camping,

<p>5. the Responsible Camping Fund be continued and increased as necessary to support the legislation:</p> <ul style="list-style-type: none"> a. to assist councils to enforce a greater district area due to probable wider disbursement of illegal freedom campers, b. for freedom camper ambassadors, c. for the education of domestic tourists, d. for education targeted to international visitors about the expectations and regulations for freedom camping, e. for a phone application to assist freedom campers with their holidays, e.g. site availability, regulations and by-law information. 	<ul style="list-style-type: none"> d. for a phone application to assist freedom campers with their holidays, e.g. site availability, regulations and by-law information. <p>4. that the status quo remains on the current provisions which let councils (regional and territorial authorities) choose whether to have unrestricted sites for freedom camping in vehicles that will not meet the new certification standard.</p>
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For Proposal 3: Improve the regulatory tools for Government land managers, we recommend that:

6. fines be increased because an on the spot fine of \$200, as in the current legislation, does not provide a deterrent for infringement offences,
7. the current maximum fine of \$1,000 should be raised and higher fines enabled through regulations and a change in legislation,
8. there be a range of different fines for different offences,
9. there be nationally consistent signage for self-contained sites,
10. infringements for human waste only be considered for offences where people are caught in the act by officers, and
11. if an infringement for human waste, as in point 9, be introduced, there be sufficient procedural regulations to protect officers given the sensitivities of the matter,
12. infringements be issued to rental companies as the registered owners of the vehicle to avert non-payment from tourists leaving the country without paying,
13. the infringement legislation is drafted for a fast infringement process (due to the transience of tourists) but also maintains fairness and the principles of natural justice,
14. fraudulent claims of self-certification be infringeable and to be enforced by use of a central register, rather than have officers enter the vehicle to check the fittings,

15. vehicle confiscation be streamlined to improve existing confiscation tools (see the Local Government Act 2002 ss164-168),
16. local authorities be consulted on changes to the confiscation/towing/clamping provisions to ensure its workability,
17. local authorities enforce freedom camping rules on Crown land, e.g. Waka Kotahi, (NB: Department of Conservation land is excluded from consideration in the Consultation and we do not support local authorities regulating DoC land),
18. there be a national standard of certification for self-contained vehicles to enable consistent regulation at self-contained vehicle only sites,
19. that the national register of self-contained vehicles be linked to the licence plate of the vehicle,
20. the status-quo remains for regional and territorial authorities to restrict or prohibit freedom camping through bylaws or notice making powers,
21. that the Government regulates multi-national companies, e.g. Google and Google Maps, which promote illegal freedom camping sites on their websites,

For Proposal 4: Strengthen the requirements for self-contained vehicles, we recommend that:

22. there be a central government regulatory body with the authority to issue compliance certificates and we suggest Waka Kotahi NZTA as a suitable agency,
23. self-containment includes the toilet being attached to the vehicle and the toilet has appropriate privacy even when used in a crowded area.

Other Considerations

Transition timing

1. We note that local authorities will need time to work with rental companies to develop a streamlined electronic ticketing system to implement the collection of fine payments, and
2. we recommend that there be a transition period of at least 18 months to provide time for the local government sector to make changes, including time to consult with their communities, make changes to bylaws and put in new signage, procedures and/or sites and facilities.

Homelessness vs freedom camping

3. We note that councils have homelessness policies to assist homeless people in their communities, and
4. we recommend that the interpretation of freedom camping clearly state that those choosing to live permanently in vehicles or tents on public land, because it is their preferred lifestyle choice are defined as freedom campers.

National consistency and New Zealand Inc

5. We recommend that regional councils retain their ability to create freedom camping bylaws for their communities and have the same regulatory powers as territorial authorities.
6. We recommend that the Department of Conservation also have the same regulatory tools as territorial authorities made available to their enforcement officers.
7. We recommend that updates to the legislation provide a workable, nationally consistent freedom camping approach across all public land including regional reserves and conservation land, for the purposes of environmental sustainability, increasing the understandability of the regulatory regime, preventing unintended consequences, and achieving consistent regulation across New Zealand Inc.

Part Three: Specific Matters

In this section we provide comments on specific provisions in the Consultation and other issues (such as matters that may have been omitted from the Consultation). We also note that our comments in this section are subordinate to our general comments.

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

or

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.

The first proposal is that vehicles must be certified as self-contained when freedom-camping. The alternate second proposal is the same, but with an added alternative that if the site has toilet facilities, then the vehicle does not need to be self-contained.

Policy drivers

There is a divergence of council policy on freedom camping. Many local authorities prefer proposal 2 because of the economic benefits that freedom campers bring to their communities. These councils provide freedom camping controls through provision of sufficient unrestricted camping areas, seasonal port-a-loos, nightly enforcement patrols and daily camper education through their community ranger programmes. Funding for some of these things has been provided through MBIE's Responsible Camping Initiatives. Bylaw compliance rates can be as high as 98%. The high compliance and low infringement rates places a continued reliance on central government funding to cover costs to continue the successes of these programmes.

Other councils experience very large numbers of freedom campers and therefore, more regulatory difficulties. The costs and disadvantages in these cases need to be weighed against the benefits. Option 1, mandatory self-containment, is the preferred option for these councils. A possible unintended consequence of proposal 1 could be that non self-contained vehicles will continue to freedom camp but will be dispersed further across districts and more difficult for local authorities to enforce. An increase in the Responsible Camping Fund could assist councils to enforce wider areas of their districts. If Option 1 should be the preferred proposal, increased infringements would assist in disincentivising non-compliant vehicles from freedom camping.

Nationally consistent signage

Nationally consistent signage would assist the freedom camping market to have certainty about the regulations nationwide and help prevent misunderstandings about governmental expectations. We support having nationally consistent signage for freedom camping sites.

Dump stations

Should proposal 1 be the Government's preferred proposal, there will be an increase in self-contained vehicles. Associated infrastructure costs will require an increase in dump stations to prevent any unintended behaviour of illegal dumping of waste due to inadequate sanitary waste disposal facilities. The Government should support tourism by providing financial support for this increased infrastructure through funding mechanisms such as the Tourism Infrastructure Fund.

Along with free sites, camping grounds are also a destination for self-contained vehicles. We submit that campgrounds be required to provide dump station infrastructure commensurate with their self-contained vehicle accommodation.

Increased numbers of people tenting

Some of MBIE's expected behaviour changes from proposal 1 are that there would be increased numbers of people freedom camping in:

- certified self-contained vehicles, and/or
- tents, and
- there may be increased numbers of people opting to use price-sensitive accommodation, such as youth hostels.

Given that tents would not have to be certified self-contained, they will become an attractive and cheap holiday alternative for price-sensitive tourists. Our budget retail chains offer cheap camping options that are readily available. We do not know how large the tenting market could become. However, without any real barriers to entry, the tenting segment of the freedom-camping tourist market could become very large.

A consequence of having increasing numbers of tenters with no self-containment and no provision of toilet facilities, would be increased instances of human waste incidents on camping sites. This undermines the intent of the changes. Therefore, we do not support proposal 1 as a viable proposal in its current form.

If tenting is not prohibited under proposal 1, councils will still need to pass bylaws to prohibit it.

Provision of toilets at sites

Proposal 2, allows non self-contained vehicles where toilets are provided. This is a viable proposal because it codifies in legislation the same successful policies that many local authorities have already put in place through bylaws. Many councils are already providing toilets at designated freedom camping sites with a resultant trend of increased bylaw compliance, fewer complaints and fewer infringement notices. Some councils are satisfied that they have achieved an appropriate balance of protecting the environment, respecting cultural values and encouraging the budget tourist economy by use of the existing provisions.

Under proposal 2, unless there is clarity about which sites are designated freedom camping sites, there may be an expectation that the presence of a public toilet denotes permission to freedom camp. Councils need clear protections against any unintended consequences of people camping on sports grounds, public car parks, city streets, in parks or anywhere where a vehicle can be legally parked.

We recommend there be a clear definition, which works in different scenarios, of what constitutes a freedom camping site, other than just being a certain distance from public toilets.

Proposal 3: Improve the regulatory tools for Government land managers

Stronger infringement scheme

The consultation proposes increasing the fines, having different fines for different offences, having rental companies be responsible for paying fines, and infringements for those which fraudulently claim to be self-certified.

Having this range of tools would strengthen the penalties and provide deterrents for breaching the Act. We note that there could be considerable problems in regulating freedom campers who drop human waste in public spaces. For obvious reasons, we do not support council officers collecting evidence where people are caught in the act, other than that of observation that the act occurred. Should such an infringement be introduced, officers need sufficient procedural regulations to protect them, given the sensitivities of the matter.

We support having different fines for different offences, increasing the fines and infringements for those who claim to be self-certified but are not.

Whatever changes are made arising from these proposals, Taituarā suggests that an on the spot fine of \$200 does not provide a deterrent for infringement offences. As we understand it legislation supports a maximum fee of \$1000 if the Governor-General makes regulations setting an amount, and these regulations have not been made. Either MBIE needs to make these regulations or legislation is needed to repeal the provision and raise the maximum amount.

Further to this, we support the proposal that infringements be issued to the registered vehicle owners. Rental companies should be responsible for paying infringement fines to avert non-payment from tourists leaving the country without paying. The legislation will need to be able to accommodate a fast process due to the transient nature of tourism, but also maintain fairness and the principles of natural justice.

A streamlined electronic ticketing system, where the infringement is passed on to the rentee, would need to be set up for this proposal to work efficiently. Local authorities will need time to work with rental companies to develop fast electronic infringement systems.

We ask that a regulatory scheme which incorporates fraudulent claims about being self-certified, to be able to be enforced by using a central register for checking the certification, rather than an officer having to enter the vehicle to check the fittings.

Vehicle confiscation

Local authorities already have the ability to tow vehicles from public land for committing an offence under the Local Government Act 2002. The power is seldom used due to the regulatory tools being unwieldy and difficult to use. Streamlining the confiscation process would be beneficial to provide greater utility for this last line regulatory power. There is always a small minority of people who demonstrate repeated refusal to comply with the legislation.

We support confiscation and clamping as a regulatory tool in freedom camping policy, and we propose there be further consultation with local authorities to ensure its workability.

Regulatory system for self-contained vehicles

At present, enforcement officers have to distinguish between home-made self-contained stickers and those from reputable sources. We support national oversight and a regulatory system for self-contained vehicles that has a standard of certification and a national register of certificates which is linked to the licence plate number. This would assist enforcement officers in assessing vehicles for compliance at freedom camping sites.

At present, officers have no rights of entry into a vehicle to assess toilets or plumbing and we support having a certification system which allows a vehicle to be assessed from the outside.

Allowing council officers to enforce rules on other Government owned land

Under the current Act, some Crown land does not regulate freedom camping, e.g. land owned by Waka Kotahi. Consistency of the application of the law is an important principle so that citizens are able to trust that the regulatory system is fair and society continues to uphold the mandate for local authorities to regulate.

There will be benefits to local authorities to be able to enforce camping rules on Crown land not currently covered by the Act. Councils currently issue infringements and then have to waive them for camping on Waka Kotahi land because they are outside council jurisdiction and cannot be upheld. We support local authorities being able to enforce freedom camping regulation on Waka Kotahi land or other Crown entities' land (excluding DOC land which is not included in the Consultation proposals).

The proposal would not limit or affect existing bylaws or notice making powers

We support the status quo to remain for local authorities to restrict or prohibit areas through bylaws or notice making powers.

Governmental regulation of large multi-national companies

Local authorities regulate freedom campers who believe they are legally freedom camping due to misinformation from large multi-national companies such as Google or Google Maps. Local authorities request removal of incorrect freedom camping misinformation, however, multinationals are unresponsive to council requests. Therefore, we request there be Governmental regulation of international corporates whose platforms promote illegal camping information.

Proposal 4: Strengthening the requirements for self-contained vehicles

We consider that strengthening the requirements for self-contained vehicles is pivotal to the success of proposal 1, however, proposal 2 could potentially be successful without improved plumbing as has been demonstrated through the successful use of bylaws and strategic policy in some councils.

For a vehicle to be self-contained the toilet needs to be attached to the vehicle, able to be used, even in a crowded area allowing for appropriate privacy. If the plumbing requirements are too onerous, there will be barriers to freedom camping which will likely have the effect of decreasing the overall numbers of tourists.

The suggested option of imposing fixed permanently mounted tanks for waste as opposed to the cartridge style would add a cost barrier to people who currently use their toilets and camp responsibly. Cartridge tanks are sufficient to achieve the desired outcome of self-containment.

Other considerations

Transition arrangements

We ask that there be a sufficient transition period of at least 18 months for local authorities to consult with their communities, change bylaws and introduce new procedures. Should proposal 2 be the preferred proposal, some local authorities may want to provide more toilets and sites for those vehicles which will not meet the self-contained standard.

Time is also required to improve infringement systems so that rental companies can receive infringements quickly or immediately. Liaison with rental companies will be required to put workable systems in place.

Differentiating between homelessness and freedom camping

Councils need to be responsive to and understanding of the needs of homeless people. When complaints about homelessness are received, local authorities work with social services to resolve the situation. Councils generally do not infringe in these circumstances, but work to improve the situation according to their homelessness policies and their arrangements with other agencies.

Enforcement officers have to differentiate between those who are involuntarily homeless and those who make a lifestyle choice to live in a vehicle, i.e., those who choose to live in converted buses and campervans but do not have private land on which to park their vehicle. Some of these people are taking the approach that they, nor anyone else is subject to freedom camping bylaws because the bylaws are against the Bill of Rights and their personal freedoms. Some of these people permanently park at council sites and refuse to move when found to be in breach of a bylaw by an enforcement officer and requested to do so.

When an enforcement officer assesses a freedom camper's site, the characteristics of someone being homeless versus freedom camping in a vehicle or tent can appear identical at the outset. Deciding whether the person is involuntarily homeless or a voluntary lifestyle camper is achieved by the enforcement officer establishing a relationship over time to determine the person's circumstances. If the person is homeless, a council process to assist them is implemented and infringements are either not issued or waived.

Councils need the ability to take appropriate action against lifestylers choosing to live in vehicles in a location or manner which is in breach of a council bylaw, or an Act.

We recommend that the interpretation of freedom camping clearly state that those choosing to live permanently in vehicles or tents on public land because that is their preferred lifestyle choice are defined as freedom campers.

National consistency and New Zealand Inc

Regional councils and DOC have their own bylaws or rules for freedom camping. Regional councils have policies and bylaws for their reserves, and they generally achieve their freedom camping controls. We recommend that regional councils retain their ability to create freedom camping bylaws for their communities and have the same regulatory powers as territorial authorities.

Some DOC controlled sites with freedom camping bans in place, and no toilet facilities, do have ongoing freedom camping issues, and we suggest that they also have the same regulatory tools as territorial authorities made available to their enforcement officers.

We recommend that the updates to the legislation provide a workable nationally consistent freedom camping approach across all public land including regional reserves and conservation land, for the purposes of environmental sustainability,

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Professional excellence in local government

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