



BRIEFING

Freedom camping – design for transitional funding to councils

Date:	8 July 2022	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2122-2398

Action sought		
	Action sought	Deadline
Hon Stuart Nash Minister of Tourism	<p>Agree to the scope of the freedom camping transitional fund.</p> <p>Decide on the implementation timescale of the Fund.</p>	14 July 2022

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Dale Elvy	Manager, Tourism Operations and Partnerships	Privacy of natural persons		✓
Jon Lyall	Principal Policy Advisor, Tourism Operations and Partnerships	Privacy of natural persons		
Moriah Osborne	Graduate Policy Advisor, Tourism Operations and Partnerships		Privacy of natural persons	

The following departments/agencies have been consulted
Local Government New Zealand (on the funding for the development of bylaws)

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments

BRIEFING

Freedom camping – design for transitional funding to councils

Date:	8 July 2022	Priority:	Medium
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Purpose

This briefing seeks your:

- agreement to the details of the freedom camping transitional funding for councils
- decision on the implementation timescale of the Fund.

Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- a **Note** that Cabinet agreed to a \$10 million fund to aid local government to transition to new freedom camping rules and regulations, and agreed that \$5 million would be available in both 2022/23 and 2023/24.

Noted

- b **Note** that the key elements of the Fund which you proposed to Cabinet were as follows:

- i) Available to local authorities only;
- ii) Be available to undertake activities relating to the transition of the freedom camping rules, including the use of ‘camping ambassadors’ to explain changes on the ground, as well as to develop new bylaws and educate the public;
- iii) Cover the two summers 2022/23 and 2023/24; and
- iv) Be contestable.

Noted

- c **Agree** that the scope of the Fund is as follows:

“Funding will be provided to councils to support the transition from the existing freedom camping system to the new freedom camping rules. Examples of eligible projects include:

- *Educational programmes: such as posters, pamphlets or cost of staff brought on for communicating the new changes*
- *Camping ambassadors*
- *Creation of bylaws, including, but not limited to, drafting and consulting on bylaws*
- *Signage.*

Funding will not be provided for:

- *Initiatives not from councils (for example, initiatives from peak bodies or industry will not be funded)*
- *Infrastructure and ongoing operational costs.”*

Agree/Disagree

d **Agree** that councils can apply for all costs relating to the development of Freedom Camping bylaws.

Agree/Disagree

e **Agree** that grant amounts will be capped at \$250,000.

Agree/Disagree

f **Agree** that co-funding from councils is not required to access the Fund.

Agree/Disagree

g **Agree** that MBIE will make decisions on the allocation of funds with advice from an independent panel.

Agree/Disagree

h **Note** that MBIE intends to work in partnership with Local Government New Zealand on a model bylaw that can be provided to councils.

Noted

i **Note** that MBIE will consult with members of the Responsible Camping Working Group on the proposed parameters of the Fund (once we have received your decisions).

Noted

j **Agree** to one of the implementation timelines:

Option 1: Release payments from the Fund to councils for summer 2022/23.

Agree/Disagree

OR:

Option 2: Wait to provide payments from the Fund until the Bill is enacted (projected May 2023).

Agree/Disagree

k If you choose Option 2, **indicate** whether you wish MBIE to provide advice on potentially operating another round of the Responsible Camping Fund to cover summer 2022/23.

Yes/No

Dale Elvy
Manager, Tourism Operations and Partnerships
Labour, Science and Enterprise, MBIE

Hon Stuart Nash
Minister of Tourism

8/7/2022

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Background and purpose of the fund

1. On 27 October 2021, Cabinet agreed to provide \$10 million in funding (the Fund) to support activities to assist with the transition from the existing freedom camping system to the new rules and regulations. It agreed that \$5 million would be available in both 2022/23 and 2023/24 summers [*DEV-21-MIN-0219* refers].
2. Cabinet also agreed that the \$10 million be funded from a one-off reprioritisation from Tourism New Zealand 2021/22 funding [*DEV-21-MIN-0219* refers].
3. The purpose of the Fund is to help councils to manage the transition from the existing freedom camping system to the proposed new freedom camping rules. Once the Fund ends, councils are expected to manage costs from baselines.
4. Cabinet was advised that the Fund could be used for a range of activities including 'camping ambassadors' to explain changes on the ground, as well as to develop new bylaws and educate the public on the new regime. However, there was no specific Cabinet agreement to these activities.
5. During your announcement of the proposed freedom camping policy changes on 30 November 2021, you announced that the Fund would support local councils to educate freedom campers and develop local bylaws over two years.
6. This briefing seeks your agreement to the key elements of the Fund and seeks your direction on implementation timelines.
7. This briefing is the third of seven freedom camping related briefings/aide memoires coming to you in the next few months. We have already provided you with the following advice:
 - a. *Approval for consultation: Self-Contained Motor Vehicles Legislation Bill and LEG paper* [2122-4727 refers]
 - b. *Freedom Camping – alignment with right to adequate housing under the International Covenant on Economic, Social and Cultural Rights* [MBIE: 2122-4122 HUD: BRF21/22051327 refers].
8. Future advice coming to you:
 - c. *Approval for lodgement: Self-Contained Motor Vehicles Legislation Bill* [2122-4873]
 - d. *Talking Points for LEG Committee 28 July 2022: Self-Contained Motor Vehicles Legislation Bill Aide* {2122-4895 refers}
 - e. Introduction speech: *Self-Contained Motor Vehicles Legislation Bill* [2122-5060]
 - f. Freedom Camping Regulations discussion document [2122-4548 refers].

Previous Freedom Camping funding

9. The Responsible Camping Fund has previously provided councils with funding to help manage freedom camping in their regions. A total of \$23.8 million has been provided over three rounds of funding for an average of \$8 million per summer: 2018/19, 2019/20, and 2020/21. Funding was not provided for the 2021/22 season.

Design of the Fund

Initiatives/services in and out of scope

10. It is recommended that an outcomes approach is taken to the scope of the funding, rather than providing a specific list of the items that can be funded. Instead, examples of what can

be funded will be provided, but there is scope for councils to apply for other activities that meet the scope of the funding. This will allow councils flexibility to seek funding for activities that have not been identified. However, a list of the type of activities that cannot be funded would be publicised.

11. According to the agreement made by Cabinet, it is recommended that the scope of the Fund will be as follows:

“Funding will be provided to councils to support the transition from the existing freedom camping system to the new freedom camping rules. Examples of eligible projects include:

- a. *Educational programmes (e.g. posters, pamphlets or cost of staff brought on for communicating the new changes)*
- b. *Camping ambassadors*
- c. *Creation of bylaws, including, but not limited to, drafting and consulting on bylaws*
- d. *Signage.¹*

Funding will not be provided for:

- a. *Initiatives not from councils (for example, initiatives from peak bodies or industry will not be funded)*
- b. *Infrastructure and ongoing operational costs.”*

12. The scope of the Fund ensures a range of education and enforcement activities can be funded, such as camping ambassadors which have been supported by previous rounds of funding through the Responsible Camping Fund and have been effective in educating campers and reducing difficulties resulting from freedom camping in recent years.

13. There are exclusions to what the Fund will support, including infrastructure and ongoing operational costs not related to the transition to the new regime (e.g. funding for toilet blocks or their maintenance). Excluding these activities will ensure the Fund delivers on its intended objectives as well as encouraging councils to fund ongoing freedom camping management themselves.

Creation of bylaws

14. The new rules and regulations will require councils without current bylaws that restrict freedom camping and who want to have sites used by non-self-contained vehicles to develop a bylaw to designate these sites. Councils with existing bylaws may also need to modify and update these depending upon the changes to the freedom camping rules.

15. We have considered four options for how to fund the development of bylaws:

- a) Lump sum set payments to all councils who wish to develop or modify their bylaw
- b) Customised payments to individual councils for the additional costs required to develop or modify their bylaw
- c) Funding for specific elements (e.g. consultation) of the bylaw process

¹ Councils and the Department of Conservation (DOC) are required to have signage available at freedom camping sites to inform campers of the rules. Many of these signs will need to be updated due to the changing rules. Some councils may also need to introduce new signage at camping sites. In addition to supporting the installation of signage through the Fund, we are investigating the possibility of standardising signage throughout New Zealand by providing a template design or prescriptive requirement for signs which will also reduce costs.

- d) Funding for all costs associated with the bylaw process.
16. We considered each option against three criteria:
- Value: ability of the options to improve freedom camping outcomes and add value to the freedom camping system.
 - Equity: fairness of the options for all councils.
 - Administration: administrative costs for councils to apply for funding and for the Fund process to be managed by MBIE.
17. The analysis of each option against the three criteria is provided as **Annex One**. We recommend option d) where the Fund allows councils to apply for payments which cover all costs associated with the bylaw process.
18. We consider option d) to offer the greatest flexibility for councils and would allow the funding to be the most easily focused on areas that councils have identified as most in need of funding. The other options would result in either suboptimal use of funds (e.g. too much for some councils and too little for others), or impose arbitrary limits on what can be funded without considering where funding is most needed for each council.
19. Option d) will require the most administration, as officials will need to assess each application against the criteria to determine where the funding will be distributed. Funding is limited and the funding applications may exceed the total amount available through the Fund. We are confident that MBIE has the capacity to manage this administration.
20. Local Government New Zealand (LGNZ) has agreed with our recommendation of option d).

Model bylaw

21. A model bylaw is currently available through LGNZ's website, but work will be required to update the existing template to align with any changes to freedom camping rules. An updated model bylaw would reduce time and costs from councils in drafting new bylaws.
22. Local government members of the Responsible Camping Working Group (RCWG) have indicated they are willing to work with LGNZ and MBIE to further develop/change the model bylaw to support councils implement the new laws.

Capping of grant amounts

23. We recommend that there be a funding cap per application of \$250,000. A funding cap will maximise the quantity of councils that can access the Fund with a minimum of 20 councils able to access funding each year and ensure that the Fund is not being used up through large bids from a small quantity of councils.
24. Applications for freedom camping funding showed that most councils (around 75 percent) requested less than \$250,000 to address freedom camping issues. Therefore, it is unlikely that this cap will affect most applications.

Co-funding of grants

25. We considered including a requirement for councils to provide a level of co-funding. Other funds, such as the Tourism Infrastructure Fund (TIF), have co-funding requirements as part of its application process. Co-funding in this Fund would encourage investment in freedom camping by councils and maximise the Fund's ability to support councils.
26. However, we recommend that co-funding should not be required to maintain equitability of the Fund. Smaller councils with lower ratepayer bases may have challenges in accessing required co-funding to support freedom camping management.

Assessment and decision-making process

27. An assessment and decision-making process is required to consider applications to the Fund. We recommend that MBIE has decision making delegations for the Fund assigned to the General Manager, Tourism, and runs an application assessment process with advice and input from an independent panel.
28. The independent panel would include individuals with expertise in local government, tourism and/or responsible camping, and local government or other public funding. This process would ensure that an appropriate level of expertise contributes to the decision-making process as well as an administratively efficient application, assessment and decision process. The proposed assessment and decision-making process is consistent with the approach used in the TIF and previous Responsible Camping funding.
29. We considered three other decision-making processes. Firstly, we make decisions without any external input. Secondly, an independent panel make decisions without any input from us. Thirdly, you make all decisions without external input or input from us. We have disregarded these three processes in favour of a conjoined approach between us and an independent panel as the amounts granted are likely to be small and decisions will be required quickly.
30. You will make the announcements about the Fund and its recipients.

Priorities of the Fund

31. There is a risk that this Fund will be oversubscribed as previous funding rounds have allocated more than \$5 million. A framework for prioritising applications will need to be outlined in case this occurs.
32. We will develop priorities in collaboration with the independent panel and seek your approval to use and publicise them (if you agree to this decision-making process) closer to the time that applications open.

Timing of the Fund's implementation

33. We have recently provided you with a detailed timeline for the Bill and its associated regulations [2122-4727 refers]. This timeline has a possible Royal Assent in May 2023.
34. Based on this we have provided two options for the implementation timing of the Fund. These options are on the basis that Cabinet did not specify any direction as to when the funding could be spent within the two years that the funding has been provided. However, to align with the Cabinet decision, it must "*support activities that will ensure a smoother transition from the existing freedom camping system to the new rules and regulations*".

We have identified two options for the timing of the Fund

35. Each option and its associated benefits and risks are summarised in the table below.

Options	Benefits	Risks
Option One: Release payments from the Fund to councils for summer 2022/23. This could include releasing less than the \$5	<ul style="list-style-type: none"> • No negative feedback from councils. • The public are given additional time to learn about how the proposed changes prior to them going live. 	<ul style="list-style-type: none"> • Risk of potentially spending the Fund too early before the proposed changes are confirmed through the parliamentary process, particularly if this process takes longer than in our current timeline. • Effectiveness of spend limited: Without having the new laws enacted, there will be limitations to council's activities e.g the level of education to be provided to the public. This could mean

<p>million in 2022/23.</p>		<p>that the funding is not effectively spent.</p> <ul style="list-style-type: none"> • Potential for negative feedback and opposition from the public due to freedom camping laws still being under parliamentary consideration. • Administrative challenges to being able to distribute funding to councils prior to the 2022/23 summer season. The implementation process for the Fund is expected to take approximately four months from the time that applications open until grants are paid to applicants.
<p>Option Two: Wait to provide payments from the Fund until the Bill is enacted (projected May 2023).</p>	<ul style="list-style-type: none"> • Funding likely to be more effective as the final design of the new laws would be known. This would allow more meaningful education and enforcement activities. 	<ul style="list-style-type: none"> • There is a risk of negative feedback from councils as the Fund would not be providing funding for the 2022/23 summer (MBIE has already been contacted by a small number of councils around whether funding will be available, and we are expecting enquiries to increase).

36. We seek your decision on the timing of releasing money through the Fund. There is no MBIE preferred option.
37. If you choose option two, it is possible that money could be found from a source other than the Fund, such as forecasted underspends in the TIF and the Tourism Communities: Support, Recovery and Re-set Plan. Instead of using the Fund for this coming summer, another round of the Responsible Camping Fund could be used to fund general freedom camping activities over summer 2022/23.
38. This course of action would allow the \$10 million Fund to remain intact once the freedom camping changes have been decided through parliamentary processes. However, it would reduce funding available for a future TIF round or funding available for your other priorities.

Next steps

39. Once we have received your direction on this paper, we will consult with the Responsible Camping Working Group. We will report back to on the results of this consultation.

Annexes

Annex One: Analysis of options for bylaw funding

Annex One: Analysis of options for bylaw funding

Option	Pros	Cons
<p>Option A: Lump sum set payments</p> <p><i>Councils automatically receive a standard lump sum amount if they apply for help to develop a bylaw</i></p>	<ul style="list-style-type: none"> • Easy administratively – no need to determine need before granting but total amount allocated would depend on the maximum amount being granted to each council and the total number of councils that apply 	<ul style="list-style-type: none"> • Not tailored to need – a set amount could be too small for some councils and too large for others, resulting in an inefficient use of the Fund • Issues for prioritisation – no differentiation is made for councils in most or least need • Strong incentive for councils to apply even if they do not need the funding as there is no need to prove this
<p>Option B: Pro rata payments for extra services taken on</p> <p><i>Councils funded for costs they have taken on specifically to help with the development of a bylaw. Includes, for example, contractors taken on to help with the process, but not staff already employed who are moved onto freedom camping bylaw work.</i></p>	<ul style="list-style-type: none"> • Separates extra costs taken on for creation of freedom camping bylaws from those already existing (e.g. existing employees). Therefore targets parts of bylaw development that councils may otherwise be unable to afford. • Constrains funding for bylaws to only extra costs – meaning there is greater potential for the transitional fund to be able to invest in other freedom camping related activities. 	<ul style="list-style-type: none"> • Potentially incentivises taking on extra contractors and separating costs needlessly to get around the constraints • Would exclude well-resourced councils (arguably they are not the target of this funding – it is to help councils with onerous extra costs who would otherwise struggle or be unable to develop a new bylaw) • Administratively somewhat complex – will require costs to be proven to be specifically for freedom camping bylaw development and not other areas. • Local Government New Zealand indicated councils are likely to already be using contractors for day-to-day operations.
<p>Option C: Funding for specific parts of bylaw development</p> <p><i>Councils funded for certain parts of the bylaw development process (i.e. consultation or drafting of bylaws).</i></p>	<ul style="list-style-type: none"> • Administratively somewhat simple – no need to determine that services are extra costs vs already existing costs. Still a need to determine whether funding is needed in the area applied for the given council. • Can target funding to the area likely to be the largest source of cost for councils • Restrains amount that can be funded as 	<ul style="list-style-type: none"> • Doesn't cover all the costs of Council's bylaw. • Administratively somewhat complex – will require costs to be proven to be specifically for freedom camping bylaw development and not other areas.

Option	Pros	Cons
	only one part of costs is eligible	
<p>Option D: Funding for all costs associated with the bylaw process.</p> <p><i>Councils given full amount of money they applied for (subject to grant caps and prioritisation), which is a self-determined amount that they consider costs of creating the bylaw to be</i></p>	<ul style="list-style-type: none"> • Funding is targeted specifically to areas and councils where it is needed. This maximises the targeting of funding to where it will contribute the most value for development of freedom camping bylaws. • Does not arbitrarily restrain the amount funded (beyond the \$250,000 total grant cap and prioritisation) 	<ul style="list-style-type: none"> • Administratively somewhat complex. Applications will need to be assessed to determine that funding is needed for each given council in the areas identified by that council. • Effort required to ensure there is no subsidisation of existing costs (e.g development of non freedom camping related bylaws) • This option is the most costly option.