

6 October 2022

Ministry of Business, Innovation and Employment  
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Tēnā koutou

## Christchurch City Council submission on the Freedom Camping Regulations discussion document

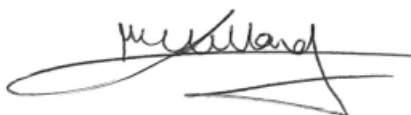
1. Christchurch City Council (the Council) thanks the Ministry of Business, Innovation and Employment for the opportunity to provide comment on the matters raised in the Freedom Camping Regulations discussion document.
2. The Council is broadly supportive of the proposed approach to preparing regulations that will help support changes to the Freedom Camping Act (and the Plumbers, Gasfitters and Drainlayers Act). We are very pleased to see improvements in the freedom camping system.
3. Of the six policy areas in the discussion document, we have confined our comments to the following three areas: the format of the self-containment certificate and warrant; the fees and fines attached to each infringement offence; and exemptions from the need to be certified as self-contained.
4. We have no specific comments on the technical requirements for self-contained vehicles; the criteria for approval as a self-containment certification authority; or the levies and fees to cover the costs of providing regulatory oversight.
5. We acknowledge the funding that MBIE has made available to help support councils to transition to the new regime, but question the timing of the release of the funding, given that the changes are not likely to be confirmed until at least mid-way through next year. Councils will continue to need support through the two year transition period to implement the freedom camping changes.
6. We would also like to acknowledge the focus on tech and data solutions that MBIE has previously had, and question what has happened to these approaches to better support sustainable freedom camping in New Zealand.

7. We hope that the changes being proposed will enable us to achieve a better balance between the concerns of our communities, protection of our environment, and a welcoming approach to visitors who choose to visit our district.
8. We set out some general comments in our submission below, and which options we prefer from the discussion document.

Thank you for the opportunity to provide this submission.

For any clarification on points within this submission please contact Teena Crocker, Senior Policy Analyst, [teena.crocker@ccc.govt.nz](mailto:teena.crocker@ccc.govt.nz)

Ngā mihi

A handwritten signature in black ink, appearing to read 'Lynn McClelland', with a large, sweeping flourish underneath.

Lynn McClelland  
**Assistant Chief Executive**

## Self-containment warrants and certification (Chapter 3)

1. Self-containment warrant cards are important for compliance monitoring and enforcement activities that we undertake in relation to our Freedom Camping Bylaw. Those undertaking enforcement activities rely on documentation to confirm that a vehicle is appropriately self-contained. Instituting a national system, with regulatory oversight, is long overdue.
2. Having a self-containment warrant card displayed on the front windscreen (along with other regulatory documents, such as vehicle registration), is a quick way for someone undertaking enforcement activities to confirm the self-containment status of a vehicle.
3. We are pleased to see that the new system will enable the authenticity of this warrant card to be confirmed by searching a national register.
4. We believe MBIE has identified some good reasons for the details of self-containment to be recorded on a vehicle's self-containment certificate, which will protect the integrity of the regulatory system. Good reasons include avoiding modification of a vehicle once it has received certification, and to give confidence to a potential purchaser that the vehicle is genuinely certified in its current form.
5. Our enforcement officers are not likely to have the time or expertise to inspect self-containment certificates, but are likely to rely on warrant cards to confirm self-containment.
6. We agree that generic self-containment stickers serve no purpose and are open to fraudulent display.
7. The discussion document suggests the establishment of a unique identifier or reference number as additional information for the self-containment certificate. We are unclear why this would be needed, when the registration plate number of a vehicle is a unique identifier.
8. We also support the infringement fine for failing to display a self-containment warrant when a vehicle has been certified as self-contained. We note that this was mentioned in the discussion document, but that the offence is not currently reflected in the Self-Contained Vehicles Legislation Bill (the Bill).

### **Support for options:**

We largely support MBIE's preferred options:

- establishing green self-containment warrant cards that will be displayed on windscreens;
- no longer having a generic self-containment sticker;
- recording details of a vehicle's self-containment facilities on self-containment certificates; and
- having a searchable register to confirm self-containment.

**Recommendation:** We recommend amending the Bill to include an offence for failing to display a self-containment warrant - to align with what is proposed in the discussion document.

## Infringement fees and fines (Chapter 4)

### *Concerns about proposed increases in infringement fees*

9. In general, we are pleased to see changes to the infringement regime, including a greater range of infringement fees. We support the introduction of a tiered infringement regime.

10. In our submission on the policy proposals previously undertaken by MBIE, we supported an increase in the amount for infringement fees, but did not support a large increase in the amount.
11. We submitted that a large increase would result in fewer fines being issued, a greater proportion not being paid, and an increase in challenges in the District Court. This would require greater resources for councils and increase our administrative burden and costs.
12. We submit that increasing the fines too much may present a health and safety risk to enforcement officers issuing the fines. We have had a recent increase in threatening behaviour from freedom campers, and an increase in reporting to the Police due to safety concerns.
13. We support the top tier infringement fee being no more than \$800. We agree that a maximum infringement fee of \$1,000 may be perceived of as unduly harsh.

#### *Concern about lack of alignment of infringement fees and infringement offences*

14. The examples given in the proposed tiered infringement regime in the discussion document do not directly align with the offences contained in the Bill or in the Freedom Camping Act. By using only some examples, and not aligning them with the offences in the bill, the proposals lack clarity.
15. For example, the Self-contained Motor Vehicles Legislation Bill contains the following offence:  
*A person commits an infringement offence if the person: ...interferes with or damages the area, its flora or fauna, or any other structure; or deposits waste in or on the area (other than into an appropriate waste receptacle) (section 18, new section [20\(d\)](#))*
16. Interfering with or damaging, and depositing waste, are listed together in the legislation, yet the discussion document refers to “actual damage” and makes no mention of depositing waste. Would depositing waste also be associated with the top tier infringement fee of \$1,000 or \$800?
17. We note that the discussion document references the \$300 infringement for littering in the Reserves (Infringement Offences) Regulations as a comparable amount, but does not provide clarity on what penalty depositing waste would attract under the proposals. We also note that a comparable infringement is contained in the Litter Act 1979, with a fee of no more than \$400 (See [s.13\(4\)](#) of that Act.)

#### *Improving the infringement offence for damage*

18. We believe the offence for damage could be improved, and we will be submitting to the Select Committee on this issue. We raise it here for completeness.
19. The offence for interfering with or damaging “*the land, its flora or fauna, or any structure*” could be improved with the addition of “*or infrastructure*”. We have had cases of taps and pipes being damaged by freedom campers.

#### *Improving the infringement offence for depositing waste*

20. We believe the offence for depositing waste could be improved, and we will be submitting to the Select Committee on this issue. We raise it here for completeness.
21. The current offence is “*depositing waste in or on the area (other than into an appropriate waste receptacle)*”. The word “waste” does not cover the range of things that are left at campsites, including piles of recycling (glass and plastics), or equipment being left behind.

22. We suggest this offence could be strengthened by amending the description so that it is more clearly linked to depositing or leaving rubbish, waste, recycling, equipment or other things at a camping location.

#### *Adding a new infringement offence for discharging a substance*

23. We believe an infringement offence for discharging self-containment waste should be added, and we will be submitting to the Select Committee on this issue. We raise it here for completeness.

24. The offence in the Act for discharging a substance does not come with an infringement, but is a prosecutable offence (with a fine of up to \$10,000). There are two issues with this. Firstly, it is not an infringement offence, but a prosecutable one, meaning it is less likely to be used, and secondly, the threshold for the offence is high, with the word significant used twice (significant adverse effect on the environment, and significant concern to the community). See sections 20(2) and 23(2) of the current Act.

25. We suggest an infringement offence is added, to enable enforcement for discharges that do not meet this high threshold. Retaining the current offence leaves the option of prosecuting for more serious breaches.

26. With an increase in self-contained vehicles, there may be an increase in inappropriately discharged waste. Taking a prosecution can be onerous, and having an infringement option would be helpful.

#### **Support for options:**

We support a tiered infringement regime.

We support a top tier fine of no more than \$800. We believe \$1,000 may be perceived of as unduly harsh. We raise concerns about the safety of enforcement officers in carrying out their duties if the fines are unreasonably high.

#### **Recommendations (some of which relate to changes to the bill):**

We recommend careful consideration of the alignment between the offences in the bill and those raised in the discussion document on the regulations to ensure proposals are captured (eg failure to display a warrant card).

We seek clarification on the proposed infringement fee for depositing waste.

We recommend improving the wording of the offence for depositing waste so that it better reflects the activities that are occurring on local authority area land - *depositing or leaving rubbish, waste, recycling, equipment or other things*.

We recommend amending the offence for damage to extend to include damage to infrastructure - *interferes with or damages the land, its flora or fauna, or any structure or infrastructure*.

We recommend considering adding an infringement offence for discharging self-containment waste (and retaining the option of prosecuting for serious breaches).

#### *Definition of freedom camping in relation to infringement offences*

27. We are also making a submission on the Bill, and reiterate salient points here in relation to the infringement regime proposed for the regulations.
28. The Bill proposes to strengthen the requirements around self-contained vehicles, yet still allows camping in a tent as an entitlement (with no requirement to provide or have access to toilets).
29. Our strong preference is that camping in tents on local authority area land is prohibited (unless allowed in a bylaw). A bylaw could then enable camping in tents and non-self-contained vehicles in places where it is appropriate, such as where public toilets are available. Camping in a tent and camping in a non-self-contained vehicle should be treated equally, as neither has facilities to provide for the sanitary or ablutionary needs of the occupants / campers.
30. The current proposal may see an enforcement officer infringing someone for camping in a non-self-contained vehicle, but allowing someone to camp in the same location in a tent. This is illogical if the issue is access to appropriate facilities. If the person in the non-self-contained vehicle then pitched a tent next to their vehicle, they would be entitled to camp in that same location.
31. With sleeping in a tent not being captured by the new rules, we may find that “budget” freedom campers, who have largely been the problem, will just switch from camping in vans to camping in tents, meaning the problem the changes seek to solve will not be adequately fixed.

#### *Need for the definition of tent to be clearer for infringements*

32. Our preference is that camping in tents on local authority area land is prohibited, but allowed where specified in a bylaw. In the absence of this change, we are concerned that in order for the infringement offences to work, what constitutes a tent needs to be defined. The Bill entitles anyone to camp in “a tent or other temporary structure” on local authority area land.
33. It is unclear which requirements will apply for a hybrid tent / vehicle combo (self-contained, or not?). Examples include pop-up campers and awnings attached to vehicles / caravans. We note an MBIE briefing to the Minister in September 2021 that highlighted the need for clarification on what constitutes a tent, but no subsequent change has been included in the Bill.<sup>1</sup>
34. The inclusion of “any other structure” is very broad, and may see things like tarpaulins being incorporated into camping set-ups, especially as more people may default to tent-use. This is not appropriate in many local authority areas and needs to be better managed by legislation.

#### *Need for alignment with Reserves Act (Reserves (Infringement Offences) Regulations 2019)*

35. We are pleased to see reference in the discussion document to the Reserves (Infringement Offences) Regulations 2019, and acknowledgement that there are similarities between activities that occur on reserves and on other local authority area land.
36. We have previously submitted about the need for better alignment between bylaws made under the Reserves Act 1977 and the Freedom Camping Act 2011.

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<sup>1</sup> *Outstanding policy decisions on tent definitions and transitional funding*, Briefing to the Minister of Tourism, 28 September 2021, para 15(b) <https://www.mbie.govt.nz/dmsdocument/19839-outstanding-policy-decisions-on-tent-definitions-and-transitional-funding-pdf>

37. An infringement notice can be issued for camping in a breach of a bylaw made under the Freedom Camping Act, but there is no such fine available for camping in breach of a bylaw made under the Reserves Act.
38. The land we regulate through our freedom camping bylaw and the land we regulate through our parks and reserves bylaw is legally different, but appears the same to campers and local communities. This creates confusion and inconsistency when camping is prohibited under both bylaws, but only one has an infringement fee associated with it.
39. We were hoping this inconsistency in enforcement would be addressed through the legislative changes that are being proposed. Consistency and simplification are intended aims of the changes, but these two types of local authority area land are currently subject to different enforcement approaches for the same activity.

#### *Homelessness, freedom camping and infringements – definition change?*

40. The discussion document raises the issue of homelessness in relation to freedom camping enforcement (p.34) and concludes that the policy intent is for enforcement authorities to continue to apply discretion. We follow Local Government New Zealand best practice and treat homelessness and freedom camping differently.
41. We understand that one of the reasons for retaining the entitlement to camp in a tent may be to avoid homeless people living in tents being unintentionally regulated. We do not believe this argument is valid. Homeless people are just as likely (if not more likely) to live in vehicles, as they are to live in tents. The new requirements for self-containment will unintentionally capture people living in vehicles and experiencing homelessness.
42. We believe a better approach would be to provide clarity by incorporating the word “recreational” into the definition of freedom camping. This would indicate the intent that the regulated group are those undertaking camping for recreational purposes (as opposed to those experiencing homelessness).
43. We caution that any wording would have to be carefully crafted to consider the implications for those who chose to live in a vehicle for lifestyle reasons (such as in a house-bus), and for seasonal and itinerant workers.

#### **Recommendations (some of which relate to changes to the bill):**

We recommend making it clear which requirements apply to pop-up and other hybrid tent-vehicle combinations by better defining tent (but our preference is to remove the entitlement to camp on local authority area land in a tent).

We recommend consideration is given to aligning infringement offences for breaches of bylaws that regulate the same activities, but on different types of council land – that is, Freedom Camping Act bylaws and Reserves Act bylaws. Both bylaws can prohibit camping, but only freedom camping bylaws have an infringement offence and fee available.

We recommend considering a better definition for freedom camping, and perhaps adding the word “recreational” to avoid unintentionally regulating people who are homeless.

## Exemptions and exclusions (Chapter 5)

44. We strongly support MBIE's preferred option of not providing exemptions from self-containment requirements for smaller vehicles and for vintage vehicles (Option 1).
45. Smaller camping vehicles are widely recognised as problematic in a freedom camping context, and a major contributor to community frustrations. Smaller vehicles simply cannot meet the sanitary and ablutionary needs of the occupants, so cannot be considered self-contained. Exempting smaller vehicles from the new requirements would defeat the purpose of the changes.
46. Vintage vehicle owners should not be compelled to convert their vehicles to meet self-containment requirements, or be eligible for an exemption. Conversions may compromise the integrity of vintage vehicles and lower their value. Vintage vehicle owners should be able to choose what they do. If they choose not to seek self-containment, they will be limited in where they can camp (private land, in camping grounds, or in areas that are enabled under a bylaw and cater to non-self-contained campers).

**Support for options:**

We strongly support not providing exemptions from self-containment for smaller vehicles or vintage vehicles.