



Ministry of Business Innovation & Employment

Freedom Camping Regulations

DISCUSSION DOCUMENT

Submission from the NZMCA

October 2022



SUBMISSION TO Ministry of Business Innovation and Employment

REGARDING Freedom Camping Regulations: Discussion Document

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INTRODUCTION

This is the New Zealand Motor Caravan Association's (NZMCA) submission to the Ministry of Business Innovation and Employment's (MBIE) discussion document on the proposed Freedom Camping Regulations. Rather than responding to the questions posed in the discussion document, we have chosen to make submissions to and comments on the ideas and arguments offered in it. This is because we believe that many of the questions posed are a little too simplistic to address the complexity of the issues considered in the document. This submission follows the format of the document's chapters.

KEY POINTS MAKE IN THIS SUBMISSION

- A. NZMCA supports the performance-based approach to regulating the technical requirements of camping vehicles' self-containment as well as the light touch approach to this. We do not believe that the proposed approach, where PDGB has gazettal powers to determine 'formal guidance', is such a light touch. We believe that certification authorities should be provided with scope to interpret and implement the regulations subject to some regulatory oversight from PDGB.
- B. The scope of the proposed national register of self-contained vehicles should be limited to what is necessary for enforcement officers to be able to confirm that vehicles found freedom camping are properly certified as self-contained. The technical details of a vehicle's inspection and certification should not be held on this database but instead held by certification authorities and made available to regulators and the public on request.
- C. Physical documentation of a vehicle's certification and compliance should not have to be displayed on it. The national register will provide easy access to this documentation. Dispensing with the need for physical documentations saves time, avoids disputes with enforcement officers and obviates counterfeiting.
- D. Graduated fees and fines up to \$1000 should be implemented as proposed although the misdemeanour infringement fee for not displaying physical documentation will not exist without the need for this documentation.
- E. There should be no exclusions or exemptions of freedom camping vehicles from these regulations.
- F. It is feasible to set certification fees in the range of \$60 to \$75 if PDGB was to adopt a cost minimisation approach to funding the regulatory system rather than a risk minimisation one. MBIE should provide financial backing to PDGB for perhaps five years to support the system's implementation and to offset financial risks associated with lower-than-expected take-up of the new certification by vehicle owners.

NZMCA AND ITS INTEREST IN FREEDOM CAMPING

1. NZMCA is a not-for-profit membership organisation which promotes and supports vehicle-based camping throughout Aotearoa New Zealand. We have more than 114,000 members who own over 63,000 camping vehicles all of which are certified as self-contained under the voluntary standard NZS 5465: 2001. The Association was largely responsible for introducing the idea of regulating and certifying self-containment of camping vehicles in 1990 and has worked on the voluntary regulation of self-containment since the 1970s. This was done to set some minimum standards around the environmental impacts of vehicle-based camping with the intent of protecting our environment and maintaining the social licence which such camping had with the New Zealand public.
2. The Association operates the largest self-containment certification service in the country and is responsible for over 80% of all vehicle self-containment inspections/certifications nationally. We have over 500 volunteer self-containment officers who inspect members' camping vehicles free of charge for their compliance with the technical requirements of NZS 5465¹. Over the past three years they have inspected and certified more than 44,000 vehicles². The system is administered through the NZMCA national office in Auckland which issues self-containment documentation for compliant vehicles, oversees the training and credentialing of self-containment officers and the auditing of inspections. This system has worked well for more than 25 years and has provided the regulatory basis for self-containment introduced under the Freedom Camping Act 2011.
3. NZMCA appreciates the need for change in how camping vehicles are certified as self-contained. We acknowledge the veracity of the concerns of many communities which host freedom camping and the problems which a small proportion of freedom campers cause for these communities. We recognise too the way in which the current system of voluntary compliance has become frayed by some people and organisations ignoring basic standards, and by their misrepresentations and cheating. NZMCA accepts that the time for government oversight of self-containment regulation has arrived.
4. The intent of amendments to the Freedom Camping Act and of the proposed Freedom Camping Regulations are broadly supported by the NZMCA. We have concerns with some of the detailed changes proposed in the proposed legislative reforms and new regulations. The Association is however committed to supporting these changes in their final form and once they have been approved by Parliament and the Minister of Tourism. This commitment extends to continuing to provide vehicle inspection and certification services to our members and business partners and to providing technical advice and access to our intellectual property for MBIE and the Plumbers Gasfitters and Drainlayers Board (PDGB).

¹ On 29/9/2022 NZMCA had 675 active self-containment officers registered on its database of which 624 did not charge for inspections they undertook.

² Total inspections reported on NZMCA's self-containment database for the period April 2019 to March 2022.

SELF-CONTAINMENT TECHNICAL REQUIREMENTS

5. NZMCA supports a performance-based approach to regulating the technical requirements for self-containment in camping vehicles. Such an approach is broadly consistent with that taken in the Building Act and the New Zealand Building Code which provides both for certainty through the pathway of acceptable solutions and scope for innovation via alternative solutions matched against performance standards.
6. This flexibility and scope for innovation is not however apparent in the Option 1 'light-touch' performance-based requirements. This is because the role of the PDGB appears quite prescriptive at least in how it is described in the discussion document. PGDB's proposed role in Option 1 is that of providing 'formal guidance' which because it is expected to be gazetted must be seen to have some legislative standing. This being the case, it is difficult seeing the material included in a gazette notice as being merely for guidance. Rather, such material will probably have some 'enforceability' or else why gazette it? The description of this tier of the regulatory framework as 'formal guidance' alludes to this formality as does the proposal that it will 'come into force around the same time that it is issued' (gazetted). In addition, the discussion document proposes that the PGDB will produce interpretation material which suggests a fifth level in the proposed regulatory framework. It is difficult seeing such an approach as being 'light touch' especially when vehicle self-containment is a reasonably narrow area of technical assessment and compliance so should not require a four or five layer approach to regulating it.
7. NZMCA is planning to become a certification authority under the amended Plumbers, Gasfitters and Drainlayers Act. As such we plan to reconfigure our existing volunteer-based inspection/certification system in order to meet the requirements of the new regulatory system. The Association accounts for more than 80% of current inspections/certifications of self-contained camping vehicles³ and expects to maintain this market position in the new regulatory regime. Given this position, NZMCA has both the scale and incentive to run an inspection system which has closely specified interpretations of technical requirements, shared understandings around inspection processes and a consistent approach to training and maintaining its vehicle inspectors' technical competence.
8. A 'light touch' regulatory approach would not have four or five layers of regulation but instead offer scope for those responsible for making the system work to decide details on how performance standards and other compliance requirements can be met. To that end NZMCA expects to have a prescriptive internal process for interpreting the new regulations and to guiding inspections. We see little value in PDGB imposing these elements of the new regulatory regime as a statutory process when it can be done more efficiently by certifying authorities.
9. NZMCA accepts that the alternative of expecting certification authorities to interpret and implement regulation runs the risk of variable performance. This includes the possibility that

³ NZMCA self-containment inspection records indicated that our self-containment officers inspected 60,529 vehicles between October 2018 and September 2022 – a four-year certification period. In 2021 MBIE estimated that 68,000 self-contained camping vehicles were in private ownership with at least a further 5000 in the rental fleet. (MBIE (2021) *Supporting Sustainable Freedom Camping in Aotearoa New Zealand*. p.9) NZMCA's inspection of over 60,500 vehicles in four years represents nearly 83% of this estimated fleet of 73,000 vehicles.

some certification authorities and vehicle inspectors deliberately implement lower standards than those anticipated in the new regulatory system. There is some promise in a type of 'community of practice' around shared interpretations of the regulations and common approaches to inspections. To that end, NZMCA is happy to share much of its self-containment intellectual property with other certification authorities on a non-exclusive basis as a foundation for such a 'community of practice'. We see this approach as preferable to one of having interpretations and direction imposed by a regulatory body such as PGDB.

SELF-CONTAINMENT CERTIFICATION AND VEHICLE INSPECTORS

10. The discussion document's analysis of the problems with the current system (p.17) is, in the NZMCA's opinion, accurate. We agree with the claim that the 'approval conditions (for issuing authorities) in the voluntary Standard are too subjective' and that there are 'no details of what constitutes an appropriate qualification, course of instruction or competency test for testing officers. However, these shortcomings by themselves are not the cause of the weaknesses in the way some self-containment inspections were undertaken and subsequently certified. The underlying problem was the integrity of the some of those who established themselves as issuing authorities and their exploitation of the lack of any regulatory oversight to hold them to account. NZMCA believes that it has run an issuing authority under NZS5465 which has robust and authentic training, testing and auditing processes. As noted above perhaps 80% to 85% of self-containment inspections and certifications were done by this issuing authority. We believe that some level of regulatory oversight is required in the new system to prevent opportunists gaming the system by exploiting ambiguities and loopholes. In designing such regulatory oversight, it is important to be mindful of the causes and scale of past failures to ensure that the oversight is neither too onerous nor too ambitious.
11. With one exception NZMCA believes that the proposed approval criteria set out on p.62 of Appendix Two are proportionate and appropriate and should form the basis of the PGDB's application and approval system for certification authorities. On this basis and with the exception discussed below, NZMCA supports Option 1 (on page18) as the best approach for approving certification authorities.
12. NZMCA shares MBIE's concern about the 'fragility of the current vehicle inspector network' (p.23) and the 'risks associated with not having enough existing inspectors and issuing authorities transitioning to the new regime' (p.23). While the Association is committed to supporting the transition to the new regulatory regime, it is likely that a small but still significant minority of the more than 500 NZMCA vehicle inspectors will retire. Their likely retirement will be on account of the system changes being made and particularly the need to undertake more training and perhaps to re-credential. Probably, the more onerous the requirements for more training and assessment the greater the number of people who will drop out of the system. For this reason, NZMCA supports Option1: requiring vehicle inspectors to be knowledgeable ahead of requirements that inspectors should be required to have a relevant trade qualification.
13. As noted above, NZMCA is planning to become a certification authority and to reconfigure our existing volunteer-based inspection/certification system to achieve this. We have not yet commenced the design of this reconfiguration but are concerned that that some of the detailed requirements of certification authorities and vehicle inspectors proposed in Appendix Two are tending to design our reconfigured system for us. Such a determination is, in our

view, inconsistent with the ambition of having a light-touch regulatory system. Specifically, these concerns relate to two aspects of the IT relationship between the national register and a certifying authority.

14. Appendix Two of the discussion document suggests the following approval criteria for certification authorities:
 - (k) appropriate IT facilities to enable:
 - i. inspection details to be entered into the national register of self-contained vehicles
 - ii. the review of inspection details prior to issuing of a self-containment certificate
 - iii. the issuing of a self-containment certificate.
15. NZMCA's inspection system is entirely decentralised as it usually takes place at vehicle inspectors' homes and sometimes at events. These inspections are undertaken at more than 450 locations. This geographic distribution should be seen both as a strength NZMCA's approach and a necessity for a new regulatory system which is accessible and convenient. Such decentralization will present challenges for data management especially as our vehicle inspectors have variable levels of IT competence and connectivity. Partly in response to this variability, NZMCA's certification system is quite centralised. We expect this to remain the case in the new reconfigured system. The extent to which the NZMCA's information management system is compatible with the IT facilities anticipated in criteria 2(k) remains to be seen. At this stage we have concerns with two aspects of the system which are implied in criteria 2(k)ii relating to certification authorities and 3(c) relating to vehicle inspectors.
16. Criteria 2(k)ii requires a certification authority to have IT facilities which allow inspection details to be reviewed prior to the issuing of a self-containment certificate. Two questions emerge from this expectation. What is reviewed and who reviews it? That inspection details need to be reviewed prior to the issuing of a certificate implies a level of scrutiny of vehicle inspectors which NZMCA does not see as being necessary. Moreover, the need to employ people to undertake such reviews will impose additional cost into the regulatory system which will need to be recovered by the certification authorities. Such costs have not been factored in MBIE's original regulatory impact statement for the proposed reforms and should not now be expected of vehicle owners or certification authorities.
17. NZMCA believes that the proposed national register of self-contained vehicles should not be seen as an exhaustive (and expensive) database which contains the technical details of each vehicle's inspections. Rather it should only record the following details:
 - the vehicle's manufacturer and year of manufacture;
 - the vehicle's registration plate number;
 - the date the vehicle's certification ends;
 - the number of people the vehicle is certified to accommodate;
 - a unique identifier of the inspection which records the certification authority, vehicle inspector and the reference number of the actual inspection.NZMCA submits that this information is all that is required for the enforcement of self-containment standards at freedom camping sites. Further we submit that a more extensive database will be more expensive to run for those inputting data at certification authorities and for the number of people required to run it at PGDB. This expense will be met through self-containment fees which is an issue raised later in this submission. We acknowledge that

questions of the content of the register are covered in clause 87ZB of the Self-contained Motor Vehicles Legislation Bill. We will be raising this content question in NZMCA's submission on that Bill. We note however that details of the vehicle inspection may (rather than must) be included on the register under clause 87ZB(2).

18. A second implication of the proposed national register of self-contained vehicles comes from criteria 3(c) which requires 'Recognised Vehicle Inspectors' to be able to demonstrate competency in entering inspection details into the national register. NZMCA has not decided if it will require its vehicle inspectors to enter inspection details directly into this register or will require these to be sent to its national office for entry by NZMCA staff. As a certification authority, NZMCA will be held responsible for the veracity of information entered into the national register under its authority. We agree fully with this accountability. This means that a certifying authority, rather than the regulator (PGDB), should assume responsibility for the accuracy and consistency of this information and so the competence of those entering it. While NZMCA will expect all its vehicle inspectors to have basic competence in data entry, we submit that this competency is the business of certification authorities not the regulator.
19. The ability of self-certifiers to manage obvious conflicts of interest needs to be considered more closely as an issue. Problems in this respect may emerge with two types of self-certifiers – importers and vehicle convertors. While NZMCA has no objection to such businesses becoming certification authorities under the new regulatory regime, they should be subject to closer scrutiny through audits to ensure that the commercial conflict of certifying vehicles they own is managed responsibly and fairly.

SELF CONTAINMENT DOCUMENTATION

20. NZMCA sees little value in continuing with a physical document-based approach to self-containment documentation given the shift to a national on-line register of self-contained vehicles and the ubiquity of virtual forms of documentation in other areas of regulatory compliance. This includes the compulsion to physically display a self-containment warrant on a vehicle and especially a generic identifier. The sole source of reliable information about the status of a vehicle as certified as self-contained should be the national register.
21. Reliance on the national register to identify vehicles which are freedom camping and not certified as self-contained requires enforcement officers to have ready access to the register even in remote locations where internet access may be limited. It is sometimes argued that a warrant card should be required to be displayed in a vehicle so that enforcement officers can confirm compliance without reference to the national register so overcoming this isolation problem. This same remote access problem applies to using a QR code (see p.30) on a vehicle's warrant to confirm compliance.
22. An alternative solution, in the minority of areas where internet access is a problem, is for enforcement officers to download an up-to-date version of the register in the office before visiting such locations - perhaps on a daily basis. NZMCA submits that the less complex the register database is, the easier it will be for enforcement officers to hold up-to-date copies of it as they visit remote locations.
23. There are at least four problems with the idea of continuing to rely on plastic warrant cards as proof of self-containment certification.

- **Counterfeiting** – there is clear evidence that the existing warrant cards have been counterfeited and continued reliance on such cards as primary evidence of compliance will simply encourage this practice to continue – see Appendix 1 for past evidence of such counterfeiting.
 - **Cost** – there is a modest but avoidable cost in producing and distributing warrant cards. NZMCA estimate this to be \$12 per card including staff time, printing and postage. Based on current NZMCA certification volumes this will amount to more than \$700,000 over four years. This cost will of course increase as postage costs invariably rise.
 - **Durability** – cards deteriorate quickly in the bright and hot conditions of windscreens and soon become illegible - this is especially a problem if cards are expected to last four years. This will require re-issuing of cards and may lead to disputes with enforcement officers over the legibility of cards.
 - **Inadvertent non-compliance** – it is commonplace for windscreen cards to fall off meaning that vehicle owners can be fined \$200 for a simple and commonplace error.
24. As discussed above, NZMCA believes that the database containing the national register should be as simple as possible and so should only record information which is needed for enforcement agencies to determine that a vehicle is or is not certified as being self-contained. Such data does not include, in our opinion, a record of the self-containment certificate or of information contained in this.
25. A strategy which minimises the scale and complexity of the database containing the national register of self-contained vehicles would need to rely on certification authorities to manage and account for much of the background data generated by the inspection and some of the certification processes. We believe that this is appropriate and fair. This responsibility to hold and manage additional information would include all the information around each inspected vehicle's certificate and its inspection. This information, including the certificate itself, would be emailed to every vehicle owner. They may or may not choose to save it in some form for accessing while they are freedom camping. This information should be freely available to the public either through access to an on-line database run by the certification authority or on request to the authority which oversaw the vehicle inspection and issued the certificate.

INFRINGEMENT FEES AND FINES

26. NZMCA supports the proposed tiered approach to the level of infringement fees at a maximum value of \$1000. The most serious end of the misdemeanors and offences under the Freedom Camping Act, such as the disposal of wastewater into the environment, deserve significant penalties to act as a deterrent and to indicate the community's distaste for such behaviours.
27. As discussed above, and for several reasons, NZMCA does not support the need for a warrant to be displayed in vehicles so the infringement fee of \$200 for not doing so will disappear. As a misdemeanor it generates no impact on the natural environment and does not impede enforcement efforts given access to the self-contained vehicle register to more reliably ascertain compliance.

EXCLUSIONS AND EXEMPTIONS

28. NZMCA does not support provisions for exclusions or exemptions for some camping vehicles from the proposed regulations. While there may be exceptional circumstances offered as

reasons for a vehicle's non-compliance, the lost opportunities for such vehicle owners in not being granted exemptions and being able to go freedom camping are not so compelling to justify the introduction of a complex and perhaps contentious set of additional rules.

29. Our main concern with the idea of exclusions and exemptions is not that these aren't occasionally deserved but that they will be gamed by opportunist parties perhaps to the point that the credibility and integrity of the new regulatory system is questioned by the public. Such behaviours undermined the current system based on a voluntary standard and can threaten the social licence of a more formalised one.

LEVIES AND FEES

30. NZMCA does not support any of the fee proposals raised in questions 23, 24 and 25 of the discussion document. This is simply because we believe them to be too high, unjustified and not viable. We believe that an appropriate and feasible fee is in the order of \$60 to \$75 per registration not the \$91 to \$120 contemplated by MBIE.
31. We dispute the analysis offered in the discussion document (at p.44) that the regulation of self-containment is a club or industry good. The purpose of the proposed regulation of vehicle self-containment is not to provide vehicle owners with private goods on some collective basis. The purpose of this regulation is probably neatly stated in a proposed 'system' objective for the new regime which is: "To protect the natural environment from contamination and pollution from wastewater and solid waste, by prescribing the minimum facilities needed to contain the waste which vehicle occupants produce and to provide fresh water which they require." (p.56)
32. NZMCA fully supports the intent of this objective and its application as an overarching statement of what most New Zealanders want to achieve around freedom camping. Its intent is however about avoiding externalities not allocating rights or resources. This being the case, the 'good' in question is a public good. While it is perfectly reasonable for those generating an externality to pay for its regulation (a type of polluter pays), most people who will pay for the new self-containment certificates are unlikely to be contaminating or polluting the natural environment with their wastewater or solid waste in the first place⁴.
33. The argument that a self-containment certificate is a type of club good seems to be based on the connection between having this certificate and being able to freedom camp in restricted freedom camping sites. The main problem in the logic of this argument is that there is no relationship between the agent being paid for a certificate (PGDB) and the agent 'providing' the freedom camping sites (TLAs and DoC). This means of course that the self-containment certificate is not a membership to any club which provides members with a good or service.

⁴ This claim is based on data provided in FreshInfo (2020) *Responsible Camping Research 2019/20*. This data showed that 63% of those undertaking freedom and 70% of the nights spent freedom camping were international visitors. Except for international visitors hiring premium rental motorhomes, only around 75% of international visitors had a camping vehicle with toilet in it and of these only 20% to 28% used the toilet they had in their vehicle. By comparison 99% of vehicles used by domestic freedom campers had a toilet in it and 96% of the people driving these vehicles used the vehicles toilets. This indicates that international visitors freedom camping are far less likely to use a toilet within a camping vehicle than are New Zealanders freedom camping and so are more likely to generate the effects such as contamination and environmental pollution complain about by host communities. The majority of self-containment fees (perhaps more than 90%) will be paid by New Zealanders who own their camping vehicle.

There is, in our experience, an indifference or even an antagonism from TLAs toward freedom campers as witnessed by many councils' increasingly prohibitive freedom camping bylaws⁵. In effect then a self-containment certificate is a licence to access a set of diminishing opportunities which the seller of the licence has no control over. This is the nature of the value proposition of regulated self-containment certificates and as discussed below it is this proposition which will influence the take-up of these certificates.

34. NZMCA submits that much of the proposed regulatory regime of self-containment deals with public goods rather than private or club goods. We believe that it is quite unfair to make a group of citizens pay disproportionately for this public good as a way of paying for the regulation of others who generate externalities. In our submission some of the costs associated with the proposed self-containment regulatory system should be funded as a public good from tax revenue.
35. Certification/registration fees 33% lower than those proposed in the discussion document are, in NZMCA's opinion justified for three reasons as follows:
 - the share of existing PGDB overheads covered by its new self-containment related activities should be more modest than is proposed in MBIE's analysis;
 - the development and depreciation costs of the proposed database can be significantly less than allowed for in MBIE's analysis, and
 - provision for direct costs related to awareness campaigns and a possible technical advisory group are public goods and should be covered by general taxation.
36. It is often difficult to allocate overhead costs across different activities or parts of an organisation in a way which every party can agree to. The approach which MBIE appears to have adopted is to re-allocate some of PGDB's overhead costs to its new self-containment activity based either on the new activity's expected share of total revenue or on the proportion of total staff time engaged in it. A proportion of 21.7% is cited in the discussion document (p.67) although the genesis of this figure is not given. From the information provided in the discussion document the possible breakdown of the budget to justify the preferred fees option (option3 - \$120) is as follows:

	Costs identified (p.67)
Loading from existing PDGB salaries	388,130
Salaries for new roles created in PDGB	225,000
Direct costs for SC regulation by PDGB	340,500
Database depreciation	475,000
Overhead costs of PDGB	469,371
Total costs to PGDB	1,898,001

37. It is difficult to know how these overhead allocations were made as the various allocations applied against the PGDB's 2021/22 financial accounts are proportionately different. This analysis is offered in Appendix 3. Appendix 3 also contains NZMCA's rework of these

⁵ NZMCA makes submissions to every territorial local authority's freedom camping bylaw review. With the exception of Auckland Council, which had a number of already prohibitive legacy bylaws, all councils propose additional prohibited sites and most often fewer restricted sites. Most councils also embrace blanket bans over complete urban areas, routes or valleys. Appendix 2 provides data on the extent of prohibited and restricted freedom camping sites proposed in recent bylaw reviews,

allocations based on what we believe are more reasonable assessments of the scale of the new tasks to be undertaken and the proportionate allocation of relevant overhead costs to this scale. This rework suggests an expected total revenue from PGDB's new self-containment operations of between \$950,000 and \$1.2 million. Applied against an expected volume of 18,250 certifications annually, revenue targets of these amounts suggest that a PGDB certification fee of \$60 to \$75 is required. NZMCA sees this level of fee as being justifiable and, as discussed below more viable.

38. In considering how the various self-containment related costs faced by PGDB should be funded, NZMCA submits that it is not always appropriate to allocate existing overheads proportionately based on some metric such as staff time allocations or share of revenue. For example, a proportionate allocation of governance costs (\$228K in 2021/22) is unfair in part because these will not change with the new self-containment activities and because the governance structure represents the interests of plumbers, drainlayers and gasfitters not owners of self-contained camping vehicles. In addition, the various overhead costs may not change much with the new activities – perhaps on account of improved economies of scale. In some instances this may mean that vehicle owners are cross-subsidising the other interests being served by PGDB. We submit that a more appropriate way of assessing PDGB's self-containment related costs is to first size the tasks required of it to meet its new statutory responsibilities, to build these tasks into its existing operations and then to assess the marginal costs of doing this additional work.
39. The discussion document gives no indication of the extent to which PGDB was consulted over the proposed cost allocation and revenue model offered as justification for certification fees of between \$91 and \$120. NZMCA presumes that it has been. PGDB faces considerable financial risk in accepting a new role as a self-containment regulator because there are few comparable public sector operations to assess the scale, scope and cost of these responsibilities. Given this risk, it would be natural for PGDB to over-estimate costs to cover the possibility of operating losses. In other words, it will adopt a risk minimisation approach rather than a cost minimizing one. The option of using a memorandum account to 'smooth out peaks and troughs in certification volumes over the implementation period' (p.68) does not necessarily address this risk aversion. This is because the most compelling risks are around higher than expected costs and lower than anticipated take-up of self-containment certification. There is only an upside for PDGB in overstating its costs as it may generate unexpected surpluses. Conversely there is a downside for vehicle owners who in the event of such surpluses have paid too much in fees. In essence then vehicle owners are bearing the financial risk associated with the proposed regulatory system. NZMCA submits that this risk should be borne by the Government – at least during the implementation phase. This is because the regulations serve the public good as well as private interests. This risk sharing could be done by providing PGDB with an operating grant for perhaps five years for the system's implementation. This could come from the \$12 million annual budget proposed to assist local councils with implementation of Freedom Camping Act changes. A budget of \$500,000 per year should be sufficient for this.
40. A significant unjustified cost in the budgets proposed in the discussion document is around the database required for the register of self-contained vehicles. This database has an expected capital cost of \$1.9 million and will be amortised over four years on a straight-line basis. This of course represents an annual cost of \$475,000 per year which is expected to be

paid for out of vehicle certification fees. NZMCA already operates a database which does much of what the proposed vehicle register will do and which contains records of over 60,000 self-contained vehicles currently with an NZMCA self-containment certificate. Our experience suggests that to develop such a database with adequate functionality to provide on-demand public access will be less than \$1 million. Furthermore, we note that PGDB amortises its existing registered trade practitioners database over eight years⁶ and can see no reason why the vehicle database should not be treated the same. NZMCA submits that a key to ensuring that the vehicle register database is relatively inexpensive is to ensure it has only sufficient scope and functionality to fulfil its statutory role. This point has been discussed above in paragraph 17.

41. NZMCA is skeptical that the anticipated certification volumes of 78,000 vehicles will be reached. Our skepticism is based on three factors.
 - **The value of what is being purchased** – access to restricted freedom camping sites has diminishing value because the number of sites is continuously declining as local councils find more reasons to close them. This means of course that the remaining sites become more crowded and less attractive.
 - **Portable toilets** - many of the vehicles currently certified under the voluntary standard have portable toilets and many of these will not be able to comply with the new rules around fixed toilets. This could be as much as 5% of the fleet which MBIE estimates at 78,000⁷.
 - **Triggers** - the certification costs may be a trigger for people to opt out. Presently NZMCA certifies over 60,000 vehicles mostly on a voluntary and free to member basis. Many of these members are living on retirement incomes and are cost conscious. Some may be antagonistic to paying government charges. For these reasons we expect a small minority of members will move away from freedom camping as an option in response to these charges and even though they have compliance vehicles.
42. Because perhaps up to 5% of NZMCA members will have vehicles which cannot comply with the new fixed toilet rules and because some members with compliant vehicles will choose to opt out of the Government's certification system NZMCA is run a parallel certification system based on the existing version of NZS5465 2001, (with portable toilets). Most likely this system will remain free to members. Either of the 'in-house' NZMCA certificates or the PDGB one will qualify members to have access to NZMCA's network of 57 Parks and to much of our Park over Properties network which has over 800 sites.
43. If anticipated certification volumes don't reach the target of 78,000 vehicles in four years, PGDB will run deficits based on the cost and revenue model offered in the discussion document. In this model there is no way of protecting PGDB from this. If actual certification

⁶ The discussion document claims (at p.67) that PGDB's current register is depreciated over seven years. The Board's annual report (at p.42) reports that this database had an historic cost of \$2.4 million and annual depreciation charge of \$298K suggesting an eight-year amortization period.

⁷ This estimate is based on the proportion of vehicles on the NZMCA self-contained vehicle register with current certification and with portable toilets. Of the 48,800 vehicles currently certified 78% have cassette type fixed toilets, 7% have fixed toilets with fixed tanks and 8% have portable toilets. The remaining 7% are not specified. Of the 8% of vehicles or 4,000 vehicles with portable toilets 2,600 are motorhomes or sleepervans which may have size limitations to fitting a fixed toilet. This represents around 6% of the fleet registered with NZMCA. Emerging experience is that medium sized vans (eg, Toyota Hiace) do have fixed toilets sometimes fitted so the proportion of vehicles which cannot have fixed toilets fitted may eventually be lower than this 5% estimate.

volumes are 20% less than this target, PGDB will most likely run a deficit of \$1.5 million over the four-year implementation period – based of course on its expected reallocations of overheads. NZMCA submits that PGDB should be protected from this risk by direct Government support and not some hopeful option of revenue smoothing through a memorandum account.

44. Clearly the less expensive the certification fee is, the fewer the numbers of owners with compliant vehicles who will opt out. NZMCA has no idea of what the rate of take-up of the new certification system will be nor the relationship between this take-up rate and the cost of the fee. A worthwhile risk minimisation option aimed at ensuring very high levels of take up (95%+) would be to expect PGDB to take a cost minimisation approach to setting its fee and insulating it from the financial risks associated with this approach by providing direct taxpayer support during the implementation period. As discussed above and supported by analysis offered in Appendix 1, NZMCA believes that a viable certification fee which reasonably covers direct costs, and which encourages a very high level of take up would be \$60. This fee in our submission should be the target fee built into the new system for the duration of the implementation period.
45. NZMCA is supportive of the idea of a scalable application fee (Option 2 p.50) alongside an option to have these fees reviewed with a possible waiver or refund resulting. We agree with the claim made in the discussion document (at p.50) that the proposed level of application fee is less than in comparable regulatory regimes. This being the case it is still important that PGDB cover the costs involving in receiving, reviewing and approving certification authority applications. It may be the case that some applications are poorly prepared or documented which will result in more time being spent on these than on well prepared and documented ones. That applicants with poorly prepared and perhaps time-wasting applications should pay more for their application seems fair to NZMCA. There however needs to be a check in any open-ended process where fees and charges are scalable, to ensure that the regulator does not become too heavy-handed in the level of scrutiny and the degree of documentation required in an application process. The potential for a review of fees offers this check and is supported by NZMCA for this reason.

NEXT STEPS


46. NZMCA appreciates the need for the urgency which has been built into the proposed two-year transition to the new regulatory system. There is a considerable amount of work to be done by MBIE, PGDB and would be certification authorities to ensure that this transition builds a regulatory regime which addresses the shortcomings of the past, has buy-in from vehicle owners and is credible to the New Zealand public. These outcomes are by no means assured at this stage as there are, in our opinion, several weaknesses in the framework and processes being proposed for the new regulations.
47. Whether or not the proposed regulatory system is as 'light touch' as imagined in the discussion documents remains to be seen. The risk aversion which is pervasive in New Zealand's regulatory culture (eg, Building Act and Resource Management Act) may easily become embedded in the new self-containment regulatory system. This may occur if we lose touch with the nature and scale of the problems we are trying to regulate for and see them as bigger than they actually are. It may also occur if the regulator – PGDB, is given the wrong

incentives and looks to over complicate processes or becomes too focused on risk – including its own financial and operational risks.

48. NZMCA is prepared to be a leader in the transition process. We are keen and able to assist PDGB with the technical content of guidelines and inspection manuals and in designing the best processes for establishing and approving certification authorities. We will work with our members to bring them on board with the changes and get them to understand the need for them.
49. These changes however need to be sensible and workable and the proposals and suggestions we have offered in this submission we believe are needed to ensure this.

APPENDIX 1: Evidence of falsified self-containment warrants

Privacy of natural persons



APPENDIX 2: Summary of prohibitions/restrictions in recent freedom camping bylaw reviews

Council	Date of proposal	Prohibited sites proposed	Restricted sites proposed	Number of blanket prohibitions proposed
Auckland	2021	45	22	
Marlborough District	2022	40	8	24
Queenstown-Lakes District	2021	25	1	16
Thames Coromandel District	2022	75	32	7
Christchurch City	2021	18	10	4

APPENDIX 3: Assessment of PDGC funding model and certification fees

Cost and funding models

	Costs identified in Appendix 3 (p.67)	Option 1	Option 2	Option 3	NZMC Option 1 3 FTEs	NZMC Option 2 5 FTEs
Loading from existing PDGB salaries	388,130	388,130	388,130	388,130	300,000	350,000
Salaries for new roles created in PDGB	225,000	225,000	225,000	225,000	225,000	225,000
Direct costs for SC regulation by PDGB	340,500	0	153,000	340,500	100,000	150,000
Database depreciation	475,000	475,000	475,000	475,000	125,000	125,000
Overhead costs of PDGB	469,371	361,416	361,416	469,371	200,000	330,000
Total costs to PGDB	1,898,001	1,449,546	1,602,546	1,898,001	950,000	1,180,000
Dedicated FTEs engaged in SC		3.85	5	5	3	5
Other PGDB staff (estimated)		17	17	17	17	17
Expected revenue with these charges		1,450,478	1,602,826	1,904,348		
Number of certifications annually	18,250	18,250	18,250	18,250	18,250	18,250
Average cost per certification	104.00	79.48	87.83	104.35	52.05	64.66
GST on average cost	15.60	11.92	13.17	15.65	7.81	9.70
Total costs - incl GST	119.60	91.40	101.00	120.00	59.86	74.36
Cost of National Register database	1,900,000				1,000,000	1,000,000
Depreciation rate	25%				12.5%	12.5%

Annual financial statement of Plumbers, Gasfitters and Drainlayers Board

Year ending March	2021	2022
Revenue		
Revenue from non-exchange transactions	3,888,239	4,105,855
Revenue from exchange transactions	1,047,801	1,318,049
Total revenue	4,936,040	5,423,904
Expenditure		
Administration	2,964,666	2,783,627
<i>Depreciation & amortisation expense</i>	328,144	322,644
<i>Personnel costs</i>	1,759,498	1,584,554
<i>Legal expenses</i>	61,709	79,378
<i>Computer expenses</i>	98,025	105,689
<i>Rent</i>	147,269	147,469
<i>Communications & consultation</i>	240,353	162,203
<i>Other administration expenses</i>	329,668	381,690
Audit fees	29,474	26,513
Governance	264,485	228,218
Examinations	406,586	424,751
CPD expenses	0	20,809
Registration & Licensing	373,179	384,296
Complaints & discipline	513,500	358,925
Prosecutions	121,077	84,310
Total expenditure	4,672,967	4,311,449
Net surplus	263,073	1,112,455
Cost of database	2,385,241	2,385,241
Amortisation	298,158	298,549
Years for complete amortisation	8	8

Possible allocations of PDGB overheads

Type of costs	YE Mar22	
Audit fees	26,513	
Governance	228,218	
Legal expenses	79,378	
Computer expenses	105,689	
Rent	147,469	
Communications & consultation	162,203	
Other administration expenses	381,690	
Total allocatable overhead costs	1,131,160	
Allocated personal costs	388,130	
Total personal costs	1,584,554	
Proportion of allocated costs based on personal costs	24.5%	
Estimated number of current PGDB employees	17	
Number of new staff proposed for SC work	4	
Scenario at 24.5% of overheads	277,134	
Scenario at 21.7% (see p.67) of overheads	245,462	
Scenario at 3 staff	199,616	200,000
Scenario at 5 staff	332,694	330,000