



COVERSHEET

Minister	Hon Peeni Henare	Portfolio	Tourism
Title of Cabinet paper	Freedom Camping regulatory policy proposals	Date to be published	28 August 2023

List of documents that have been proactively released

Date	Title	Author
November 2022	<i>Freedom Camping regulatory policy proposals</i>	<i>Office of Minister of Tourism</i>
16 November 2022	<i>Freedom Camping: Regulatory Policy Proposals</i> <i>DEV-22-MIN-0265 Minute</i>	<i>Cabinet Office</i>

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Office of the Minister of Tourism

Cabinet Economic Development Committee

Freedom Camping regulatory policy proposals

Proposal

- 1 I seek Cabinet agreement to policy proposals establishing new regulations to address the negative environmental and community impacts of vehicle-based freedom camping and to enable a more sustainable freedom camping system.

Executive Summary

Issue identification

- 2 The actions of some vehicle-based freedom campers are adversely impacting the natural environment and eroding tourism's social licence to operate in many areas of New Zealand and New Zealand's Brand proposition. The major issues are caused by vehicles that do not have self-contained toilets and vehicles that are camping in areas that are not designated as appropriate for freedom camping. This can result in human waste left in areas visited by locals and tourists.

Relation to government priorities

- 3 Improving the freedom camping system relates to the Government's priorities as set out in the Speech from the Throne: to support our tourism sector in its transition to a sustainable, low carbon, high skill and high wage industry. It also aligns with the Government's direction for tourism, in particular, rebuilding tourism on a sustainable model, mitigating the negative impacts associated with tourism and elevating Brand New Zealand.

Background

I recently introduced legislation to address some of the negative aspects associated with freedom camping

- 4 On 25 August 2022 I introduced the Self-Contained Motor Vehicles Legislation Bill (the Bill) to Parliament. The purpose of the Bill is to improve the sustainability of freedom camping in New Zealand, protect the natural environment and local communities' enjoyment of it and support people to freedom camp responsibly in self-contained vehicles.
- 5 The Bill is an omnibus Bill that amends the Freedom Camping Act 2011 and the Plumbers, Gasfitters and Drainlayers Act 2006, to make the following changes to the freedom camping system:
 - 5.1 Require vehicle-based freedom campers to use a certified self-contained vehicle when they stay on council land unless the council designates the site as suitable for non-self-contained vehicles by bylaw

- 5.2 Establish a regulatory system for the certification and registration of self-contained vehicles, with the Plumbers, Gasfitters and Drainlayers Board (the Board) as regulator
 - 5.3 Require vehicles to have a fixed toilet in order to be certified as self-contained
 - 5.4 Strengthen the infringement system by introducing new infringement offences
 - 5.5 Extend the Freedom Camping Act 2011 to include land managed by Waka Kotahi New Zealand Transport Agency and Toitū Te Whenua Land Information New Zealand.
- 6 The Bill has a category 2 priority for the 2022 Legislative Programme (must be passed in 2022).

Regulations are required to set out the technical detail of the freedom camping system

- 7 Regulations are required to fill in the detailed rules that underpin the self-contained vehicle system. The Bill also continues the ability to set levels of infringement fees in regulations¹ and enables regulations to prescribe a maximum fine.²
- 8 On 29 August 2022, Cabinet agreed to release the *Freedom Camping Regulations Discussion Document* for public consultation [DEV-22-MIN-0195 refers]. The Ministry of Business, Innovation and Employment (MBIE) recently completed public consultation. A total of 122 completed submissions were received from members of the public, local authorities, industry peak bodies, rental vehicle businesses, issuing authorities and other businesses. A summary of submissions can be found at Appendix One. Overall, respondents largely agreed with MBIE's preferred options for new regulations.
- 9 I am now proposing a suite of new regulations to support freedom camping reform. I seek Cabinet approval to issue drafting instructions to Parliamentary Counsel Office to give effect to the recommendations in this Cabinet paper.

Proposals

- 10 I recently consulted on freedom camping regulatory proposals across six key areas:
- 10.1 the technical requirements that vehicles must meet in order to be certified self-contained
 - 10.2 criteria for approval as a self-containment certification authority and vehicle inspector competency requirements
 - 10.3 the format of the self-containment Certificate and Warrant (and requirements to display the warrant)

¹ Section 23 of the Freedom Camping Act 2011 enables regulations to set infringement fees. No regulations have been made using this power.

² New section 20E, inserted by clause 18 of the Self-Contained Motor Vehicles Legislation Bill.

- 10.4 infringement offence fees and fines
 - 10.5 exclusions from regulatory requirements
 - 10.6 a Self-Containment Certification Monitoring Levy and an Application Fee for approval as a self-containment Certification Authority.
- 11 My proposed freedom camping regulations are intended to make the self-contained vehicle system more trustworthy, so the public can have more confidence in it, and reduce the environmental impacts of vehicle-based freedom camping. In particular, freedom camping regulations would aim to meet one or more of the following outcomes:
- 11.1 Environmental protection – vehicles should meet minimum technical requirements in order to be certified self-contained. Harm to the natural environment that is associated with inappropriate disposal of waste, and camping in unsuitable vehicles or areas, is reduced.
 - 11.2 Public trust and confidence - the self-contained vehicle system is trustworthy and issues with the social licence to freedom camp are mitigated.
 - 11.3 Light touch approach – the regulatory system is light-handed, in line with the level of potential harm caused by incorrectly certified “self-contained” vehicles, while still enabling the Board to provide robust national oversight.

Performance-based technical requirements will provide for vehicle innovation while ensuring minimum standards for self-containment are met

- 12 The Bill requires that regulations prescribe self-containment technical requirements.³ Technical requirements are a set of standards that a vehicle’s self-containment facilities must meet to be certified self-contained. Technical requirements provide assurance that a vehicle’s self-containment facilities are fit for purpose. A vehicle would be assessed by a vehicle inspector to ensure that it meets the requirements. Vehicles that passed their assessment would be certified self-contained.
- 13 I propose that regulations prescribe a set of performance-based technical requirements that all vehicles⁴ (including caravans) would need to meet in order to be certified as self-contained.
- 14 Taking a performance-based approach to setting technical requirements means that the regulations will have the flexibility to adjust to new self-containment products and technology without the need to be regularly updated. They also enable owners of vehicles to provide innovative solutions to meet the functional requirements. All while still providing assurance that minimum requirements are met.

³ Section 87U, inserted by clause 44, Self-Contained Motor Vehicles Legislation Bill.

⁴ The Bill uses the same definition of “motor vehicle” that is used in the Land Transport Act 1998. This definition includes cars, utes, vans, motorhomes, caravans, horse floats, and trailers amongst other motor vehicles.

- 15 Overall, submitters were more in favour of taking a performance-based approach rather than the alternative option of a prescriptive approach to setting technical requirements.
- 16 Performance-based technical requirements would be set out in four tiers:
- 16.1 Tier One: an objective that all certified self-contained vehicles must 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.
 - 16.2 Tiers Two and Three: functional and performance requirements that all self-contained vehicles must provide the following facilities for a minimum of three days:
 - 16.2.1 water supply systems that store and convey potable water securely and hygienically
 - 16.2.2 fixed toilets that collect human waste securely and hygienically
 - 16.2.3 wastewater systems that collect and store grey and black water securely and hygienically
 - 16.2.4 sinks that are installed safely and drain to greywater tanks
 - 16.2.5 ventilation systems that remove odours from vehicles
 - 16.2.6 mechanisms for the loading of water and off-loading of wastewater securely and hygienically
 - 16.2.7 secure rubbish storage.
 - 16.3 Tier Four: guidance on how to interpret the technical requirements which would be issued by the Board.
- 17 The performance-based technical requirements would also contain a set of general technical requirements that self-contained vehicles must meet. These general technical requirements would place minimum standards for all fittings, pipes, tanks and other equipment used in a vehicle's self-containment system. This ensures they are fit for purpose and constructed from appropriate materials and are installed and secured according to good trade practice.
- 18 The first three tiers would be prescribed in regulations which would be made soon after the Bill comes into force. The technical requirements would come into force six months after the Bill receives the Royal Assent.

Ensuring that the approval of certification authorities is robust

- 19 To provide the public with assurance that the certification system is robust and fit for purpose the Bill requires that vehicle certifications will only be able to be carried out by certification authorities (those individuals and organisations seeking to provide

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certification services) approved by the Board against approval criteria set out in regulations.⁵

- 20 I propose that regulations set out an approval criteria that certification authority applicants must be able to meet with the Board's satisfaction. My proposed criteria is 'light touch' and provide multiple pathways for demonstrating how criteria by those who want to become certification authorities. In most, if not all cases, existing issuing authorities, who issue certificates under the voluntary standard, could transition to become certification authorities without incurring high costs. The system would enable the Board to provide robust national oversight without imposing excessive costs on certification authorities.
- 21 At a high level, the criteria would ensure certification authorities have:
- 21.1 appropriate processes for recognising vehicle inspectors; ensuring that vehicle inspectors meet competency requirements and have regard to any formal guidance issued by the regulator, and for providing advice and assistance to vehicle inspectors
 - 21.2 appropriate processes for monitoring vehicle inspector performance, recording inspection details and issuing self-containment certificates and warrant cards
 - 21.3 appropriate record-keeping processes and IT systems that would enable inspection details to be entered into the national register of self-contained vehicles, the review of inspection details by the certification authority prior to issuing a certificate, and the issuing of a self-containment certificate and warrant
 - 21.4 an internal auditing system to ensure consistent, high-quality certification decisions
 - 21.5 if certifying their own vehicles, a means of managing conflicts of interest
 - 21.6 a means of ensuring that any third-party vehicle inspections are robust
 - 21.7 a means of managing customer complaints.
- 22 The application process would be straight forward, with regulations stipulating that certification authorities would be required to provide the key details about their business⁶ and details of the certification operation.⁷ The Board would have the power to prescribe forms for providing an application.
- 23 My proposed criteria aligns with the public's preferred option for the certification approval criteria.

⁵ Section 87C, inserted by clause 44, Self-Contained Motor Vehicles Legislation Bill.

⁶ For example, Business name, address, New Zealand Business Number, key contact details.

⁷ For example, the proposed coverage of the operation and the range of vehicles for which certification would be offered.

Vehicle inspectors will be required to prove that they are knowledgeable and competent

- 24 The Bill provides that vehicle inspections will only be able to be carried out by competent persons, and provide that competency requirements be set out in regulations.⁸
- 25 I propose that regulations prescribe a set of competency requirements based around vehicle inspectors needing to:
- 25.1 know about and understand the technical requirements
 - 25.2 be able to inspect a vehicle's performance against the regulatory requirements by using Board-issued guidance and inspection manuals
 - 25.3 know how to enter the results of the inspection into the national register of self-contained vehicles (if applicable, for example, some certification authorities may enter the results of an inspection at their head office; others may ask their vehicle inspectors to do it.)
 - 25.4 know where to seek help if they are unsure about the technical requirements or how to interpret them.
- 26 A certification authority would recognise a person as a vehicle inspector where that person was able to demonstrate their competency in the requirements listed above. A majority of submitters supported the criteria set out above. Submitters, overall, did not support more stringent requirements, such as requiring vehicle inspectors to have a trade certification.

Deeming plumbers as certification authorities and vehicle inspectors

- 27 Under the voluntary self-containment Standard (NZS 5465:2001), Plumbers registered under the Plumbers, Gasfitters, and Drainlayers Act 2006 are automatically recognised as issuing authorities and testing officers for self-containment certificates. This means they can establish themselves to check vehicles and issue certifications.
- 28 During consultation, I asked the public whether certifying plumbers should be deemed to be certification authorities and vehicle inspectors. Submitters, overall, did not support deeming plumbers, because some considered that being a plumber did not necessarily mean a plumber knows how to inspect and certify vehicles, although submitters also felt that no specific qualification was needed for this role.
- 29 The new self-contained vehicle system will require the majority of those currently working as issuing authorities and vehicle testers to transition if they wish to keep working in the sector in the following ways:
- 29.1 Issuing authorities will need to apply to become certification authorities. This means they need to meet the approval criteria and pay an application fee

⁸ Section 87T, inserted by clause 44, Self-Contained Motor Vehicles Legislation Bill.

- 29.2 Vehicle testers will need to demonstrate to a certification authority that they meet competency requirements to be recognised as vehicle inspectors.
- 30 There is a level of uncertainty about how many current issuing authorities and vehicle inspectors will make this transition, and whether the system will have the capacity to certify roughly 73,000 vehicles in 1.5 years under the new regulatory requirements.
- 31 I believe the best solution to reduce the risk of insufficient capacity is to deem certifying plumbers to be certification authorities and vehicle inspectors for the duration of the transition period. This is no change for them from being deemed under the voluntary Standard. This would enable them to facilitate the transition of the current fleet of vehicles.
- 32 Deeming would happen for the duration of the transition period only, with no cost to the plumbers, enabling them to both do the work and develop their skills and processes to assess against the new regulatory requirements. Certifying plumbers could start testing and certifying vehicles under the regulatory requirements as soon as the first transition period comes into force (six months after the Bill receives the Royal assent).
- 33 Following this period, plumbers would need to apply to become certification authorities and meet vehicle inspector competency requirements, just like everybody else. This would ensure the ensure the Board can take action to remove their accreditation as certification authorities if there are issues with performance.
- 34 This proposal would need to be made by though an amendment to the Bill. I note that officials intend to propose the amendment to the Economic Development, Science and Innovation Committee in the departmental report on the Bill.

Format of the Self-containment certificate and warrant

- 35 The Bill provides for vehicles that have been certified as self-contained to be issued with a self-containment certificate and a self-containment warrant. These documents provide proof that a vehicle has been certified as self-contained.⁹ Each document is valid for four years from the date of issue. The Bill also provides for the format of the self-containment certificate and warrant to be prescribed in regulations.¹⁰
- 36 I propose that the self-containment warrant be green in colour and contain the critical information needed to identify who owns the vehicle, the certification authority who certified the vehicle and its self-containment status (e.g., warrant expiry date and the number of people the vehicle has been self-contained for). A new green warrant would replace the blue colour of the existing warrant under the voluntary Standard, signifying clearly that the vehicle has been certified under the regulator system. The warrant would be required to be displayed on the inside left of the front window or windshield with the warrant details facing out.¹¹

⁹ The self-containment warrant is displayed on the windscreen or front window of the motor vehicle. The certificate is held by the vehicle owner.

¹⁰ Section 87X, inserted under clause 44, Self-Contained Motor Vehicles Legislation Bill.

¹¹ This retains the current requirement to display a warrant in the voluntary Standard

- 37 I propose that the self-containment certificate list the details about the vehicle's ownership, it's self-containment warrant (including which certification authority issued it and its date of expiry), details to identify the vehicle (for example, license plate details and a unique number to identify the vehicle), and the technical details of the vehicle's self-containment facilities.
- 38 My proposals would ensure that self-containment documentation collects and displays only information required to prove ownership of the vehicle, the certification authority that certified the vehicle, the vehicle's self-containment status, and a list of the technical details of a vehicle's self-containment facilities. These details would enable enforcement agencies to determine whether a vehicle has a legitimate self-containment certificate. Submitters were generally supportive of my proposals.

Infringement offences and infringement fees and fines

- 39 Section 20(1) of the Freedom Camping Act 2011 sets out a series of infringement offences related to relatively low-level breaches of freedom camping rules in local authority areas or on conservation land. The Bill adds a new set of infringement offences relating to minor non-compliance with self-containment obligations and new infringement offences related to freedom camping on Land Information New Zealand administered land.
- 40 The Bill sets a maximum infringement fee penalty of \$1,000 and a maximum fine imposed by a court of \$3,000. It also enables regulations to prescribe infringement fees and fines related to each offence.¹²
- 41 Cabinet previously agreed to the introduction of a tiered system for freedom camping infringement fees with tiers of \$200, \$400, \$600, \$800 and \$1,000. Cabinet also noted that the relevant tiers for offences will be determined as part of developing regulations. [DEV-21-MIN-0219 refers].
- 42 The infringement tiers I propose are as follows:
- 42.1 \$800 – where actual damage or adverse impacts have occurred. For example, where a person freedom camping interferes with or damages an area, its flora or fauna, or any structures in the area.
 - 42.2 \$600 – where there is an attempt to deceive or where a person disobeys a request from an enforcement officer. For example, where a person displays an altered or fraudulent warrant of self-containment or presents one to an enforcement officer.
 - 42.3 \$400 – where there is a breach of national or local restrictions. For example, where a person freedom camps in an area in breach of any prohibition or restriction in a bylaw or freedom camping notice issued by the Department of Conservation.
 - 42.4 \$200 – administrative breaches. For example, where a person who owns a self-contained vehicle fails to display the self-containment warrant.

¹² Section 20E, inserted under clause 18, Self-Contained Motor Vehicles Legislation Bill.

- 43 The table at Appendix Three sets out how these penalties would be applied to each infringement offence currently in the Bill.
- 44 Infringement fees would not be set at the \$1,000 maximum allowed under the Bill. Submitters, in general, were more supportive of my proposal of an \$800 maximum tier than the alternative option of a tiered infringement penalty system with a maximum \$1,000 fee. A maximum fee of \$800 would encourage compliance, not unduly penalise freedom campers and would align with similar penalties in Conservation legislation.¹³
- 45 I also propose that regulations provide for a maximum fine that is three times the level as the proposed fee as provided for in the Bill.

Timing of Infringement fee and fine regulations

- 46 It is important that proportionate penalties are brought into force ahead of the other regulatory proposals I set out in this paper. This will enable enforcement officers to issue higher fees where this is warranted before the other regulations that help establish the self-contained vehicles regulatory system are set up.
- 47 I note later on in this paper that the Bill would be enacted before the FIFA Women's World Cup. I would also like the infringement fee and fine regulations to be in force and operable during this important event. Having them in place will enable councils to better manage the likely increase in the numbers of vehicle-based freedom campers travelling the country to watch football.
- 48 I therefore propose that the infringement fee regulations come into force as soon as possible after the Bill receives the Royal assent, subject to local authorities having their systems ready to implement new fees and fines.

Self-Containment monitoring levy

- 49 The Bill establishes a levy payable by owners of self-contained vehicles to recover the costs incurred by the Board in exercising its functions, powers and duties that relate to the regulation of self-contained vehicles.¹⁴ Owners would need to pay the levy when their vehicle is certified or recertified as self-contained. Assuming no major modifications to a vehicle's self-containment facilities this would be once every four years.
- 50 The Board will need to recover the costs of the following self-containment regulatory activities:
- 50.1 Maintenance and ongoing development of the self-contained motor vehicles register

¹³ There are infringement offences (e.g., inappropriate disposal of litter/animal products and undertaking inappropriate activities in restricted or prohibited areas) in the Conservation (Infringement Offences) Regulations 2019 and the Reserves (Infringement Offences) Regulations 2019 that are similar to freedom camping infringement offences.

¹⁴ Section 172B, inserted under clause 49, Self-Contained Motor Vehicles Legislation Bill.

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- 50.2 Auditing and monitoring the performance of certification authorities and conducting investigations where required
 - 50.3 Formulating and issuing guidance to the sector about compliance with self-containment related requirements. For example, guidance to vehicle inspectors about how to interpret self-containment technical requirements
 - 50.4 Educating stakeholders, including the owners of self-contained vehicles, about the new self-containment regulatory system.
- 51 An overhead allocation approach was used to calculate the Board's costs. Guidance from the Treasury and the Auditor-General was used when designing the self-containment monitoring levy to ensure the levy is fair, efficient, effective and transparent.
- 52 I consulted on three options for the rate of the self-containment levy, with each rate "buying" a different level of service:
- 52.1 A levy of \$91.40 (\$79.44 plus GST), which is the "no-frills" option, providing a basic level of service
 - 52.2 A levy of \$101 (\$88 plus GST), which provides slightly more resources to the Board
 - 52.3 A levy of \$120 (\$104 plus GST), which would enable the Board to more effectively engage with the sector and to provide more support for the Register of self-contained vehicles.
- 53 Although no levy option received a majority of support, submitters considered the \$120 levy option, overall, as the second most preferred option. It was slightly less popular than the levy option of \$91.40. However, the \$120 would provide a smooth implementation of the new self-contained vehicle system. The Board would have resources conduct its regulatory oversight functions in the Bill. In particular the Board would be able to undertake the following activities:
- 53.1 running a targeted awareness campaign for the first five years to ensure that vehicle owners are fully aware of their certification obligations under the new regulatory system
 - 53.2 providing dedicated IT support for the new online register of self-contained vehicles
 - 53.3 obtaining technical advice by setting up and supporting a sector stakeholder group, which would provide the PGDB with appropriate advice on certification-related matters.
- 54 Based on my preferred option, the Board would incur an estimated \$1,898,000 per annum in regulatory oversight costs. Based on an estimated 18,250 self-contained vehicle certifications per annum, the cost per vehicle would be \$120 (\$104 plus GST). Since the certificate is for four years, this would come to \$30 total including GST per year, per vehicle.

Certification Authority Application fee

- 55 The Bill enables regulations to prescribe an application fee that prospective certification authorities would need to pay to cover the Board's cost of assessing the application.¹⁵ As the Board appoints certification authorities for a period of five years, the fee would also be payable by certification authorities when they apply for reappointment.
- 56 It is estimated that an assessment of whether an applicant's proposed certification system and procedures meet the criteria for approval and the required evidence, as set out in regulations, will take five hours at an hourly rate of \$75.00 plus GST. This includes the cost of receiving the application, assessing the proposed system against the prescribed criteria and evidence requirements, assessing how the prescribed competency requirements for vehicle inspectors will be met, and issuing the five-year approval.
- 57 The hourly rate and effort are the same as used by the Board when assessing applications for employer licences under the Plumbers, Gasfitters and Drainlayers Act.¹⁶
- 58 I propose that the application fee be set at \$375 plus GST (\$431.25 in total). This represents cost recovery based on 5 hours of Board effort.
- 59 Submitters, on balance were slightly more supportive of the fee to be scalable. Under this option, the total fee would be charged on the amount of time required to complete an assessment.¹⁷ However, I consider that the certainty of a set fee is more likely to incentivise people and organisations to become certification authorities and to incentivise the existing issuing authorities to transition to the new regulatory system.

Levy and fee waivers and refunds and review of charges

Waivers and refunds

- 60 A common feature of charging regimes established under regulatory systems is the ability of the regulator to issue waivers and refunds where the regulator considers it appropriate to do so. This could be, for example, because of an administrative error, or where it is unreasonable or unfair to require a person to pay a levy or fee.
- 61 I propose that Regulations authorise the Board to issue refunds and waivers of the application fee or the self-containment monitoring levy in the following circumstances:
- 61.1 In the case of an administrative error on the part of the Board or a certification authority
- 61.2 If the Board considers, in any particular case, that it would be unreasonable or unfair to require payment of the whole of the levy or fee.

¹⁵ Section 172A, inserted under clause 49, Self-Contained Motor Vehicles Legislation Bill.

¹⁶ Clause 5 of the Plumbers, Gasfitters, and Drainlayers (Fees, and Disciplinary and Prosecution Levy) Notice 2021 sets out the fee for an application for an employer licence. It is currently set at full cost recovery.

¹⁷ Starting from a base rate of three hours' work. So the fee would start at \$258.75 dollars including GST.

62 Submitters, in general, supported this proposal.

Review of self-containment charges

63 As noted above, the levy rate has been based on an estimated 18,250 self-contained vehicle certifications per annum. Officials estimate that there are approximately 73,000 self-contained vehicles in New Zealand. Vehicle owners will have a choice as to whether or not to transition their vehicles to the new regulatory regime, and it is uncertain at this time how many will choose to do so. It is also uncertain how much compliance and enforcement activity the Board will need to undertake.

64 Because of this uncertainty it is important that the levy rate is reviewed after a sufficient period of time to ensure the levy rate is fit for purpose and is not over or under-charging levy payers for the costs of Board oversight and monitoring.

65 The application fee should also be reviewed after a period of time.

66 The self-containment monitoring levy and the application fee would be reviewed 5 years after regulations come into force. A five-year period would enable the review to be informed by one full levy cycle (four years) and a certification authority approval cycle (five years).

I am not proposing any exceptions to regulatory requirements

67 The discussion document sought public feedback on a series of options for exemptions from some or all of the regulatory requirements.¹⁸

68 I am not proposing any regulatory exemptions. Although a majority of individual submissions did not agree with this approach, local government authorities and the Tourism Industry Association supported this proposal. Exempting vehicles from self-containment regulations undermines the intent of my reforms and would be complex to implement and enforce. I note that every territorial authority that submitted on the proposals either agreed or strongly agreed with the approach of there being no exclusions.

The Bill needs to be in place for the FIFA Women's World Cup and regulations ready for Summer 2023

69 My aim is to have the Bill passed before the FIFA Women's World Cup and the Regulations in place before Summer 2023. This is so that the new rules are in place before large numbers of international visitors return to New Zealand. In order to meet the key milestones in this timeline, I am bringing these policy proposals to Cabinet now so that Regulations can be made as soon as practicable following the Bill's Royal assent.

70 The Bill sets out a two-year transition period under which the Government's freedom camping law changes come into force.¹⁹ The policy proposals in this paper would be

¹⁸ For example, excluding smaller freedom camping vehicles from the requirement to be self-contained.

¹⁹ New Schedule 1AA, of the Self-Contained Motor Vehicles Legislation Bill establishes the transition period. Many of the Bill's changes will come into effect on enactment, but transitioning to the new regulatory system for self-contained vehicles is staged over two years from the date of enactment.

implemented through new regulations. These regulations would come into force six months after the Bill receives the Royal Assent.²⁰

71 The indicative timeline below shows the stages towards implementation.

Key milestones	
Milestone	Timing
Cabinet approves policy decisions	November 2022
Drafting instructions issued to Parliamentary Counsel Office	Late January 2023
Parliamentary Counsel drafting	Late January to late April 2023
Bill enacted	Late May 2023 (depending on progress of the Bill)
Cabinet considers infringement fee and fine regulations; regulations made by Governor-General	Early June 2023 (depending on progress of the Bill)
Consultation on exposure of draft self-containment regulations	Late April to late June 2023
Infringement fee and fine regulations in force	Early July 2023 (28-day rule observed)
Cabinet considers draft self-containment regulations; regulations made by Governor-General	July 2023 (depending on progress of the Bill)
Self-containment regulations come into force	November 2023

Financial Implications

72 The costs to the Board associated with providing oversight of the self-contained vehicles regulatory system would be met by system participants, in this case the owners of self-contained vehicles (via a levy) and certification authorities (via a fee). The total cost to the Board that will be recovered from the levy is \$1.898 million per annum (excluding GST), or \$7.592 million over four years.²¹

73 If my proposals are accepted, I will seek to establish a memorandum account to record the accumulated balance of surpluses or deficits incurred by the Board in providing regulatory oversight of the self-contained vehicle system.

Legislative Implications

74 Regulations must be made under the Plumbers, Gasfitters and Drainlayers Act 2006 and the Freedom Camping Act 2011 (as amended by the Self-Contained Motor Vehicles Legislation Bill) to implement the proposals. The proposal to deem plumbers requires an amendment to the Bill.

75 The Bill is currently before select committee. Any substantive changes to the Bill's regulation-making powers as it proceeds through the parliamentary legislative process would require me to seek new policy decisions from Cabinet. This would impact the key milestones set out in paragraph 59 as I would need to reconsult.

²⁰ Except for infringement fee and fine regulations, which would come into force sooner.

²¹ \$1.9 million from the International Visitor Levy fund has been allocated to develop the Register of Self-Contained Vehicles.

- 76 The new regulations would be made shortly after the Bill receives the Royal assent, and would come into force six months after the date of the Bill's enactment. Officials are considering whether any of the regulatory proposals could come into effect at an earlier date. Commencement dates for the new regulatory proposals will be finalised at the Cabinet Legislation Committee.
- 77 I propose, in principle, that a draft of some or all of the self-containment regulations be released for public consultation prior to final regulations going to the Cabinet Legislation Committee. This would enable drafting to be tested to ensure that it accurately captures the policy intent, that it is sufficiently clear and usable, and that there are no unintended consequences. To be clear, I do not consider it necessary to release an exposure draft of the infringement fees and fines regulations.

Impact Analysis

Regulatory Impact Statement

- 78 The Ministry of Business, Innovation and Employment's (MBIE) Regulatory Impact Analysis Review Panel has reviewed the attached Regulatory Impact Statement Freedom Camping Regulations, prepared by MBIE.
- 79 The Panel notes that the impact on self-contained vehicle owners who will be required to upgrade their vehicle to meet the fixed toilet requirements is not within the scope of this Impact Statement. This is because this change is being made through the Bill rather than through the Regulations and is therefore covered in the Impact Statement for the Bill.
- 80 The Panel considers that the information and analysis summarised in the Impact Statement partially meets the criteria necessary for Ministers to make informed decisions on the proposals in the paper. The Panel considered that the RIS does a good job of describing the problems that are being solved through the regulatory reform, and it is clear that the proposals have been widely consulted on. However, The Panel considers there is insufficient description of the likely impacts on the effectiveness of the regime of the regulatory changes in Section 2 of RIS, Deciding upon the options to address the policy problem. The Panel also considers this Impact Statement would benefit from clearer discussion of the interdependencies between the regulatory options.

Climate Implications of Policy Assessment

- 81 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

- 82 The General Policy Statement attached to the Bill states that it is not intended that the Bill will penalise people who are staying in tents or vehicles due to homelessness.
- 83 Giving infringement fines to people experiencing homelessness will worsen the situation of vulnerable New Zealanders who are already in significant hardship. While

some mitigation may be possible, the vulnerable and marginalised nature of this cohort means they are less likely to have the resources to be able to contest fines. Given the high proportion of Māori experiencing homelessness and housing insecurity, negative impacts associated with inappropriate use of compliance tools will very likely be disproportionately felt by Māori.

- 84 Enforcement authorities will continue to use their discretion to avoid infringing people experiencing homelessness who may be in breach of freedom camping bylaws or notices, as recommended by Local Government New Zealand (LGNZ)²². LGNZ has noted that it will review its freedom camping guidance, to ensure that it is fit for purpose. Government will continue supporting enforcement authorities in applying their discretion, including reviewing guidance. Our intent is to ensure that local authorities have appropriate guidance to ensure people experiencing homelessness are not penalised through freedom camping enforcement, and are instead provided with appropriate support.
- 85 The Government's approach to mitigating any potential impacts of the Bill on people experiencing homelessness aligns with the Aotearoa New Zealand Homelessness Action Plan.

Human Rights

- 86 There are no specific human rights implications arising from this paper.

Consultation

- 87 MBIE has consulted with the following agencies: Department of Conservation, Department of Internal Affairs, Department of Prime Minister and Cabinet, Kāinga Ora, Ministry of Transport, Waka Kotahi, Land Information New Zealand, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Justice, Ministry of Social Development, the Plumbers, Gasfitters and Drainlayers Board, Te Puni Kōkiri, and The Treasury.

Communications and Proactive Release

- 88 This paper and a summary of submissions will be published on the MBIE website, subject to redactions as appropriate and consistent with the Official Information Act 1982.
- 89 I will liaise with MBIE Communications team to consider the best method of communicating these decisions to the public.

Recommendations

The Minister for Tourism recommends that the Committee:

- 1 **note** that the self-Contained Motor Vehicles Legislation Bill (the Bill) has a category 2 priority for the 2022 Legislative Programme (must be passed in 2022);

²² The *Good practice guide for freedom camping* (the guidance), administered by Local Government New Zealand, covers all aspects of freedom camping, including how to approach those experiencing homelessness. The guidance outlines that "councils should avoid using their freedom camping bylaws to move on people who are genuinely homeless."

2 **note** that the Bill contains regulation-making provisions, which are required to provide the detailed rules that underpin the self-contained vehicle system [DEV-22-MIN-0195 refers];

3 **note** that consultation on the Government's proposals for freedom camping regulations has concluded, and there were 125 submissions received [DEV-22-MIN-0195 refers];

Technical requirements for self-contained vehicles

4 **agree** to a performance-based standards approach to setting technical requirements for self-contained vehicles;

5 **agree** that the following three tiers of technical requirements be set out in regulations:

5.1 Tier One: an objective that all certified self-contained vehicles must 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;

5.2 Tiers Two and Three: functional and performance requirements that all self-contained vehicles must meet provide the following facilities for a minimum of three days:

5.2.1 water supply systems that store and convey potable water securely and hygienically;

5.2.2 fixed toilets that collect human waste securely and hygienically;

5.2.3 wastewater systems that collect and store grey and black water securely and hygienically;

5.2.4 sinks that are installed safely and drain to greywater tanks;

5.2.5 ventilation systems that remove odours from vehicles;

5.2.6 mechanisms for loading of water and off-loading of wastewater securely and hygienically;

5.2.7 secure rubbish storage;

6 **agree** regulations contain a set of general technical requirements for all fittings, pipes, tanks and other equipment used in a vehicle's self-containment system, ensuring they are fit for purpose and constructed from appropriate materials, and are installed and secured according to good trade practice;

Approving persons as Certification Authorities

7 **agree** that, in making an application to the Board, a prospective certification authority must provide their name and contact details, New Zealand Business Number (if any), and details of their proposed certification operation including the proposed coverage of operations and the range of vehicles that certifications will be offered for;

- 8 **agree** that in order to be an approved certification authority applicants must satisfy the Board that they have in place:
- 8.1 appropriate processes for recognising vehicle inspectors, ensuring that vehicle inspectors meet competency requirements and have regard to any formal guidance issued by the regulator, and for providing advice and assistance to vehicle inspectors;
 - 8.2 appropriate processes for monitoring vehicle inspector performance, recording inspection details and issuing self-containment certificates and warrant cards;
 - 8.3 appropriate record-keeping processes and IT systems that would enable inspection details to be entered into the national register of self-contained vehicles, the review of inspection details by the certification authority prior to issuing a certificate, the issuing of a self-containment certificate and warrant;
 - 8.4 an internal auditing system to ensure consistent, high-quality certification decisions;
 - 8.5 if certifying their own vehicles, a means of managing conflicts of interest;
 - 8.6 a means of ensuring that any third-party vehicle inspections are robust;
 - 8.7 a means of managing customer complaints;
- 9 **note** that, where the Plumbers, Gasfitters and Drainlayers Board is satisfied an applicant meets criteria it will appoint them as a certification authority for a period of 5 years;
- 10 **note** that the Board may prescribe any forms for appointment or reappointment under its notice-making powers under the Plumbers, Gasfitters and Drainlayers Board;

Competency requirements for vehicle inspectors

- 11 **agree** that in order to be recognised as a vehicle inspector by a certification authority, a person must demonstrate competency in the following matters:
- 11.1 Knowledge and understanding of the self-containment technical requirements;
 - 11.2 Knowledge and understanding of how to correctly interpret the technical requirements when inspecting a vehicle;
 - 11.3 Ability to enter inspection details into the national register of self-contained vehicles if required to do so by the certification authority;
 - 11.4 Knowledge of how to seek assistance on the technical requirements and or how to interpret them;

Deeming certifying plumbers as certification authorities and issuing authorities

- 12 **agree** that certifying plumbers be deemed under Regulations to be certification authorities and vehicle inspectors during the Bill's transition period;

Self-containment documentation

- 13 **agree** that the self-containment warrant be green in colour and contain the critical information needed to identify who owns the vehicle, the certification authority who certified the vehicle and its self-containment status;
- 14 **agree** that the warrant be required to be displayed on the inside left of the front window or windshield with the warrant details facing out;
- 15 **agree** that the self-containment certificate list the details about the vehicle's ownership, its self-containment warrant, details to identify the vehicle, and the technical details of the vehicle's self-containment facilities;

Infringement fees and fines

- 16 **note** that Cabinet previously agreed to the introduction of a tiered system for freedom camping infringement fees, with tiers of \$200, \$400, \$600, \$800 and \$1,000 [DEV-21-MIN-0219 refers];
- 17 **note** Cabinet also noted that the relevant tiers for offences will be determined as part of developing regulations. [DEV-21-MIN-0219 refers];
- 18 **agree** the following infringement tiers:
 - 18.1 \$800 – where actual damage or adverse impacts have occurred. For example, where a person freedom camping interferes with or damages an area, its flora or fauna, or any structures in the area
 - 18.2 \$600 – where there is deceptive behaviour or where a person disobeys a request from an enforcement officer. For example, where a person displays an altered or fraudulent warrant of self-containment, or presents one to an enforcement officer;
 - 18.3 \$400 – where there is a breach of national or local restrictions. For example, where a person freedom camps in an area in breach of any prohibition or restriction in a bylaw or freedom camping notice issued by the Department of Conservation;
 - 18.4 \$200 – administrative breaches. For example, where a person who owns a self-contained vehicle fails to display the self-containment warrant;
- 19 **agree** that regulations provide for a maximum fine that is three times the level as the proposed fee, as provided for in the Bill;
- 20 **agree** to the level of infringement fees and fines set out for infringement offences set out in Appendix Two;
- 21 **agree** in principle, to infringement fees and fines regulations coming into force as soon as practicable after the Bill receives the Royal assent;

Self-Containment Monitoring Levy

I N C O N F I D E N C E

- 22 **note** that the Bill contains a regulation-making power to prescribe a levy on owners of self-contained vehicles;
- 23 **note** the levy amount should be set at a rate that would recover costs to the board of the following regulatory activities:
- 23.1 Maintenance of the self-contained motor vehicles register;
- 23.2 Auditing and monitoring the performance of certification authorities, and conducting investigations where required;
- 23.3 Formulating and issuing guidance to the sector about compliance with self-containment related requirements. For example, guidance to vehicle inspectors about how to interpret self-containment technical requirements;
- 23.4 Educating stakeholders, including the owners of self-contained vehicles, about the new self-containment regulatory system;
- 24 **agree** that the levy be set at \$120 including GST;
- 25 **agree** that the levy be collected by certification authorities prior to the vehicle owner receiving the self-containment certificate for their vehicle;
- 26 **agree** that certification authorities provide the levy collected from vehicle owners to the Plumbers, Gasfitters and Drainlayers Board;
- 27 **note** that the Minister of Tourism will seek to establish a memorandum account if these proposals are agreed to;

Certification Authority Application fee

- 28 **note** that the Bill contains a regulation-making power to require payments of fees and charges on an application to the Plumbers Gasfitters and Drainlayers Board on an application to be appointed as a self-containment certification authority;
- 29 **note** that the Bill contains a regulation-making power to prescribe the amount of fees and charges;
- 30 **agree** that the application fee be set at \$375 plus GST (\$431.25 total);
- 31 **agree** that the fee be payable each time an applicant applies or reapplies to be a certification authority;

Waivers and refunds

- 32 **agree** that the Plumbers, Gasfitters and Drainlayers Board be able to issue refunds and waivers of the application fee or the self-containment monitoring levy in the following circumstances:
- 32.1 In the case of an administrative error on the part of the PGDB or a certification authority;

- 32.2 If the PGDB considers, in any particular case, that it would be unreasonable or unfair to require payment of the whole of the levy or fee;

Review of self-containment charges

- 33 **note** that there is uncertainty as to how many of the estimated 73,000 self-contained vehicles will transition to the new self-contained vehicles regulatory system;
- 34 **note** that the self-containment monitoring levy and certification authority application fee should be reviewed after a period of five years from the regulations coming into force, to ensure the levy and fee are fit for purpose;

Approve drafting of legislation

- 35 **note** that the policy decisions in this paper will be given effect by regulations made under the Freedom Camping Act 2011 and the Plumbers, Gasfitters and Drainlayers Bill, following the enactment of the Self-Contained Motor Vehicles Legislation Bill;
- 36 **invite** the Minister of Tourism to issue drafting instructions to Parliamentary Counsel Office giving effect to the policy decisions;
- 37 **authorise** the Minister of Tourism to release an exposure draft of some or all of the draft regulations prior to bringing final regulations to the Cabinet Legislation Committee;
- 38 **authorise** the Minister of Tourism to make decisions, consistent with the policy decisions in this paper, on any issues that arise during the drafting process.

Authorised for lodgement

Hon Stuart Nash

Minister for Tourism

Appendices

Appendix One: Summary of submissions

Appendix Two: Proposed infringement offences fees and fines

Appendix One: Summary of submissions

[attached separately].

Appendix Two: Proposed Infringement offences fees and fines

Table 1 – Infringement offences in areas administered by local authorities

Offence	Proposed Fee	Proposed maximum Fine	Comments
A person commits an infringement offence if the person freedom camps in a local authority area in breach of any prohibition or restriction specified in a bylaw made under section 11 or 11A that applies to the area	\$400	\$1,200	Breach of local restriction
A person commits an infringement offence if the person freedom camps in a local authority area, other than a local authority area defined in a bylaw made under section 11A as permitting motor vehicles that are not self-contained, using a motor vehicle that is not self-contained	\$400	\$1,200	Breach of local restriction
A person commits an infringement offence if the person freedom camps in a local authority area in a self-contained motor vehicle with more people than the vehicle is certified for	\$400	\$1,200	Breach of local restriction
A person commits an infringement offence if the person while freedom camping in a local authority area,— (i) interferes with or damages the area, its flora or fauna, or any structure in the area; or (ii) deposits waste in or on the area (other than into an appropriate waste receptacle)	\$800	\$2,400	Causes actual harm
A person commits an infringement offence if the person makes preparations to freedom camp in a local authority area in breach of any prohibition or restriction specified in a bylaw made under section 11 or 11A that applies to the area	\$400	\$1,200	Breach of local restriction

IN CONFIDENCE

A person commits an infringement offence if the person makes preparations to freedom camp in a local authority area, other than a local authority area defined in a bylaw made under section 11A as permitting motor vehicles that are not self-contained, using a motor vehicle that is not self-contained	\$400	\$1,200	Breach of local restriction
A person commits an infringement offence if the person makes preparations to freedom camp in a local authority area in a self-contained motor vehicle with more people than the vehicle is certified for	\$400	\$1200	Breach of local restriction
A person commits an infringement offence if the person fails or refuses to leave a local authority area when required to do so by an enforcement officer acting under section 36	\$600	\$1,800	Disobedience of enforcement officer requirement

Table 2 – Infringement offences on land administered by the Department of Conservation

Offence	Proposed Fee	Proposed maximum Fine	Comments
A person commits an infringement offence if the person freedom camps on conservation land in breach of any prohibition or restriction specified in a freedom camping notice made under section 17 that applies to the land	\$400	\$1,200	Breach of national restriction
A person commits an infringement offence if the person while freedom camping on conservation land,— (i) interferes with or damages the land, its flora or fauna, or any structure on the land; or (ii) deposits waste in or on the land	\$800	\$2,400	Causes harm

I N C O N F I D E N C E

(other than into an appropriate waste receptacle)			
A person commits an infringement offence if the person makes preparations to freedom camp on conservation land in breach of any prohibition or restriction specified in a freedom camping notice made under section 17 that applies to the land	\$400	\$1,200	Breach of national restriction
A person commits an infringement offence if the person fails or refuses to leave conservation land when required to do so by an enforcement officer acting under section 36.	\$600	\$1,800	Disobedience of enforcement officer requirement

Table 3 – Infringement offences on Land administered by Information New Zealand

Offence	Proposed Fee	Proposed maximum Fine	Comments
A person commits an infringement offence if the person freedom camps on LINZ land, except to the extent that freedom camping is permitted on the land in accordance with a freedom camping notice made under section 19B	\$400	\$1,200	Breach of national restriction
A person commits an infringement offence if the person freedom camps on LINZ land in breach of any restriction or condition specified in a freedom camping notice made under section 19B that applies to the land	\$400	\$1,200	Breach of national restriction
A person commits an infringement offence if the person while freedom camping on LINZ land,— (i) A person commits an infringement offence if the person interferes with or damages the land, its flora or fauna, or any structure on the land; or	\$800	\$2,400	Causes harm

IN CONFIDENCE

(ii) deposits waste in or on the land (other than into an appropriate waste receptacle)			
A person commits an infringement offence if the person makes preparations to freedom camp on LINZ land, except where freedom camping is permitted on the land in accordance with a freedom camping notice made under section 19B	\$400	\$1,200	Breach of national restriction
A person commits an infringement offence if the person makes preparations to freedom camp on LINZ land in breach of any restriction or condition in a freedom camping notice made under section 19B that applies to the land	\$400	\$1,200	Breach of national restriction
A person commits an infringement offence if the person fails or refuses to leave LINZ land when required to do so by an enforcement officer acting under section 36	\$600	\$1,800	Disobedience of enforcement officer requirement

Table 4 –Other Infringement offences

Offence	Proposed Fee	Proposed maximum Fine	Comments
A person commits an infringement offence if the person displays in a motor vehicle an altered or fraudulent warrant card	\$600	\$1,800	Deceptive behaviour
A person commits an infringement offence if the person presents an altered or fraudulent certificate of self-containment to an enforcement officer acting under this Act	\$600	\$1,800	Deceptive behaviour
A person commits an infringement offence if refuses to give information when required to do so by an enforcement officer under section	\$600	\$1,800	Deceptive behaviour

IN CONFIDENCE

35, or gives false or misleading information			
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