

BRIEFING

Freedom camping work programme

Date:	6 December 2023	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-1178

Action sought		
	Action sought	Deadline
Hon Matt Doocey Minister for Tourism and Hospitality	Note the contents of this Briefing Indicate whether you would like further information	13 December 2023

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Dale Elvy	Manager, Tourism Communities and Regions	Privacy of natural persons	Privacy of natural persons	✓
Jon Lyall	Principal Advisor, Tourism Communities and Regions		Privacy of natural persons	
Dave Fraser	Senior Policy Advisor, Tourism Communities and Regions	Privacy of natural persons		

The following departments/agencies have been consulted
N/A

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



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Purpose

In the Briefing to the Incoming Minister for Tourism and Hospitality we provided you with a high-level overview of the freedom camping work programme. This briefing provides an introduction to freedom camping and a detailed overview of the associated work, including:

- background to freedom camping in New Zealand, including recent legislative changes,
- an overview of implementation of the recent legislative changes and key risks, and
- information about key stakeholders.

Executive summary

Freedom camping has a long history in New Zealand and is a small but highly visible part of both domestic and international tourism. Since 2017, the Minister of Tourism has taken the lead on freedom camping issues due to its impact on the tourism sector. Most notably, this included a series of legislative changes this year via the Self-contained Motor Vehicles Legislation Act 2023 and associated Regulations. These changes establish a new regulatory system for the certification of self-contained vehicles. The new rules are being phased in over a two-year period. You can extend the transition period by up to a further two years, if required.

The Plumbers, Gasfitters and Drainlayers Board (PGDB) has been established as the Regulator of the newly created self-contained vehicle certification regulatory system. The PGDB's regulatory functions for self-contained vehicles will be funded predominantly through a levy paid by vehicle owners. The levy is payable each time a vehicle is certified, which will usually be once every four years. There are three key risks related to establishing and implementing the new regulatory system. These risks are:

- uncertainty about exactly how many vehicles will be certified under the new system and when owners will choose to certify. This affects the amount and timing of levy payments and potentially impacts the financial position of the PGDB
- insufficient capacity within the system to certify the estimated number of self-contained vehicles before 7 June 2025, the end of the statutory transition period, and
- building an operational digital register of self-contained vehicles, which is currently behind schedule.

MBIE continues to work closely with the PGDB to manage the financial ebbs and flows associated with levy collection. MBIE will also monitor system capacity and may advise you later in 2024 on extending the transition period.¹

You are likely to be contacted by stakeholders who hold a range of views on freedom camping. Local authorities tend to strongly support the new legislative changes, as they deal with the

¹ The Freedom Camping Act 2011 enables you to extend the transition period for private vehicle owners by up to two years.

consequences of poor behaviour and waste generated by freedom camping, the costs of which they must meet. Some vehicles owners strongly oppose the changes due to the impact of the fixed toilet requirement on their vehicles. MBIE will provide you with further advice on matters as they are raised.

We also draw your attention to an emerging issue relating to self-contained vehicle waste tank venting, raised by the New Zealand Motor Caravan Association. We recommend you indicate whether you would like to receive more information on changing Regulations and primary legislation.

Recommended action

MBIE recommends that you:

- a **Note** that MBIE's focus is implementing recent legislative changes that formed the new self-contained vehicle certification regulatory system. *Noted*
- b **Note** that, as this system is new, a number of key implementation risks exist, including the number of vehicles that will be certified and when people will choose to have their vehicles certified. *Noted*
- c **Note** that you will likely be contacted by a range of individual freedom campers and sector stakeholders who hold a range of views on the approach to regulating freedom camping. *Noted*
- d **Indicate** whether you would like more information on making changes to self-contained vehicles regulations around venting requirements. *Yes/No*
- e **Indicate** whether you would like more information on making changes to primary legislation and regulations to enable portable toilets to be certified self-contained. *Yes/No*
- f **Note** that changes to legislation you will need obtain a spot in the Government's Legislation Programme. *Noted*



Dale Elvy
Manager, Tourism Communities and Regions
Labour, Science and Enterprise, MBIE

06 / 12 / 2023

Hon Matt Doocey
Minister for Tourism and Hospitality

..... / /

Background

What is freedom camping?

1. **Freedom camping** is defined in law as staying in a vehicle, tent or other temporary structure within 200 metres of a place where: you can drive, the coast, or a Great Walks Track. It does not include camping on private land, back country areas, or where payment is required for a site. A person experiencing homelessness is not freedom camping.
2. **Annex One** contains a list of the most used terms/definitions in relation to freedom camping, which are used throughout this briefing.

The number of freedom campers has increased, so have the concerns about their impact

3. The estimated number of freedom campers in New Zealand has increased from the tens of thousands in the early 2000s into the hundreds of thousands in the years prior to COVID-19. For example, in the year ended 2013 approximately 54,000 international visitors spent one or more nights' freedom camping in New Zealand. In the year ended 2019 approximately 285,000 international visitors spent one or more nights' freedom camping in New Zealand.²
4. The growth of freedom camping during the mid-2000s led to tensions in several regions. At the same time, there were concerns that the expected influx of fans for the 2011 Rugby World Cup could exacerbate existing tensions around freedom camping.
5. In response to these concerns, the Freedom Camping Act 2011 (FC Act) was passed. The FC Act provides tools to local authorities and the Department of Conservation to manage freedom camping on land that they manage. These tools included the authority to set conditions on certain sites by bylaw or notice as well as an infringement offence scheme to address relatively low-level offending. The FC Act prevents local authorities from outright banning freedom camping within their regions/districts.
6. Following the passage of the FC Act, the number of freedom campers continued to grow. This growth generated ongoing concern about the cumulative impact on the environment and local communities. Issues include:
 - a. inappropriate toileting and/or disposing of human waste and/or rubbish, which impacts the amenity of popular recreational areas, imposes clean-up costs on communities, and generates localised environmental impacts
 - b. anti-social behaviour by some freedom campers
 - c. loss of access/amenity in recreational locations due to heavy use by freedom campers
 - d. confusion about which rules apply where, and
 - e. limitations on the ability to appropriately regulate and manage freedom camping by local authorities.

Vehicle-based freedom camping has been a concern

7. A particular concern is freedom campers who stay in vehicles that are not self-contained.³ These vehicles do not have appropriate facilities to store waste generated while freedom camping.
8. Many freedom camping bylaws and notices require campers to stay in a vehicle certified with a blue warrant under the New Zealand Standard *Self containment of motor caravans and*

² Figures come from the International Visitor Survey. There is no equivalent survey of domestic visitors.

³ See **Annex One**: Definitions for a definition of self-contained vehicle.

caravans NZS 5465:2001 (see **Annex One** for more information). However, the Standard is unregulated, which has led to it being used inconsistently or inappropriately. This has led to a lack of trust in how it is being used.

9. Issues associated with freedom camping have been explored by the Responsible Camping Working Group⁴, the Parliamentary Commissioner for the Environment, independent research commissioned by MBIE, and a summary of submissions on a 2021 discussion document on freedom camping proposals.

Since 2017, the Minister of Tourism and MBIE have taken a lead on freedom camping issues

10. Since 2017 the Minister of Tourism has taken a leadership role in the government's response to Freedom camping. Although the FC Act is administered by the Departments of Internal Affairs and Conservation, the impacts of freedom camping are so strongly linked to the Tourism portfolio. Therefore, most stakeholder feedback tends to come to the Minister of Tourism.
11. The Government allocated \$24.5 million to help local authorities to manage freedom camping between the summers of 2018/19 and 2020/21. Additionally, some of the \$90 million from the Tourism Infrastructure Fund went into infrastructure that supports the better management of freedom camping. This investment was time limited, and there is no ongoing funding allocated.

Legislation has been passed to address issues with vehicle-based freedom camping

12. In response to issues associated with vehicle-based freedom camping, and following on from public consultation⁵, the Government decided to tighten up freedom camping rules and to ensure that people who choose to freedom camp in a vehicle meet more of the costs of this activity. The aim of the reforms was to lift minimum expectations and strengthen controls to minimise the risk of people camping irresponsibly. To change freedom camping rules, a Bill was introduced into Parliament in August 2022 and Parliament passed the Self-contained Motor Vehicles Legislation Act (SCMVL Act) in June 2023.
13. Three key issues emerged as the Bill progressed through Parliament, these were:
 - a. **Fixed toilets:** Research shows that fixed toilets are approximately twice as likely to be used as portable toilets.⁶ However, most individual submitters⁷ opposed the fixed toilet requirement as unnecessary and costly. Local authorities tended to support the fixed toilet requirement. The National Party opposed the fixed toilet requirement on the basis that it considered the problem was not the type of toilet but the behaviour of individual freedom campers.
 - i. Enabling vehicles with portable toilets to be self-contained would require amendments to primary legislation and regulations. Please indicate whether you would like more information on amending legislation, as well as the impact on the system and implementation considerations).
 - b. **Regulator:** The Plumbers, Gasfitters, and Drainlayers Board⁸ (PGDB) was selected as the Regulator due to the interface between sanitary plumbing and vehicle self-containment. Some MPs questioned whether Waka Kotahi (with its focus on vehicles) would be a better fit and cheaper overall. Independent estimates show that noted costings for the establishment and operation of the PGDB are not out of scope with

⁴ More information about this group is contained in the **Stakeholders** annex.

⁵ In 2021, MBIE consulted on options to make support sustainable freedom camping in New Zealand.

⁶ *Responsible Camping Research 2019/20*, page 17.

⁷ Many of these individuals were likely to be personally affected by the Bill.

⁸ See **Annex One**: definitions for key information about the PGDB.

similar regulatory functions in the public service, and that it is more cost effective for the PGDB to operate a stand-alone register of self-contained vehicles than it would be to capture self-containment information on the Waka Kotahi Motor Vehicle Register.

- c. **Homelessness:** Prior to the enactment of the SCMVL Act, the law was silent on its interaction with homelessness. Since 2011, enforcement authorities have been encouraged to use their discretion to avoid issuing infringement notices to people experiencing homelessness and instead direct them to appropriate social services. During the passage of the SCMVL legislation, Parliament decided to specifically exempt people experiencing homelessness from freedom camping-related sanctions and create a statutory review of the legislation's impact on homelessness. We discuss the review further in **The Year Ahead** section [page 7].

14. After the SCMVL Act was enacted, Regulations were made. The key changes the SCMVL Act and Regulations made were to:
 - a. require vehicle-based freedom campers to use a certified self-contained vehicle when they stay on local authority land, unless the local authority designates the site as suitable for non-self-contained vehicles
 - b. establish a regulated system for the certification and registration of self-contained vehicles, with the PGDB becoming the new Regulator and operating a register of self-contained vehicles
 - c. require vehicles to have a fixed toilet in order to be certified as self-contained
 - d. strengthen the infringement system through providing new infringement offences related to self-contained vehicles and tiered infringement penalties
 - e. extend the FC Act to include land managed by Waka Kotahi New Zealand Transport Agency and Toitū Te Whenua Land Information New Zealand, and
 - f. set a levy of \$120 to be paid when a person has their vehicle certified (generally once every four years) to fund the operation of the PGDB.
15. These legislative changes are being phased in over a two-year period. You can extend the transition period by up to a further two years, if required. An overview of the transition period is shown in **Annex Two**.
 - a. Since **June 2023**, (upon the enactment of the SCMVL Act) new self-contained vehicle certifications can only be given if a vehicle has a fixed toilet.
 - b. On **7 December 2023**, the PGDB will formally obtain its functions, powers and obligations as system regulator. From this date, the PGDB can begin to appoint Certification Authorities (CAs). Once CAs have been appointed they will be able to begin certifying vehicles. From this date, Certifying plumbers will be automatically deemed as CAs (for a two-year period) and will be able to start certifying vehicles.
 - c. By **7 December 2024**, all self-contained rental vehicles must have been certified under the new system. By **7 June 2025**, all privately-owned self-contained vehicles must have been certified under the new system.

Implementing the new changes

16. A key focus for officials has been on implementing the legislative reforms. Below we provide a summary of the work undertaken with key groups.
 - a. **Local authorities:** We have supported local authorities via a \$10 million Transition Fund to support them to transition to the new rules and regulations over summer

2022/23 and 2023/24.⁹ We have also provided guidance to local authorities on implementing the new law.

- b. **The PGDB:** We have directly supported the PGDB through the provision of implementation funding and provided advice on issues. Key pieces of work for the PGDB have included: building the new self-contained vehicle register, preparing new systems and processes, producing guidance for the sector, and minimum requirements for motor vehicle inspections. We understand the PGDB intends to brief you on this work and on the year ahead.
- c. **Freedom campers:** We produced a public awareness campaign to raise awareness of the changes, which coincided with the enactment.

The year ahead

- 17. In the year ended June 2023, approximately 117,000 international visitors freedom camped in New Zealand. This compares with approximately 257,000 for the year ended June 2019. Given that international visitor arrivals as a whole are at about 80 percent of 2019 levels, this shows that freedom camping, which is often associated with backpacker tourism is not as popular with the current visitor mix. However, we would expect this to change as we head into 2024 if we begin seeing a strong return of international back-packer style tourism.

The new regulated system comes online

- 18. As we head into summer, we can expect an increase in people freedom camping across the country as part of the peak tourist season. There are also number of key implementation milestones that MBIE will be focused on as we near the end of 2023, and which will continue throughout 2024 and into 2025.
- 19. On 7 December 2023, the new regulatory system for self-containment certification began operating. There are three key areas that we will continue to monitor.

The digital Register of self-contained vehicles is essential ...

- 20. The PGDB must build and operate a register of all vehicles certified as self-contained under the new regulatory system. The register will hold critical details about a vehicle, including ownership, certification validity (e.g., date of issue and date of expiry), the certification authority who certified the vehicle, as well as specific technical details about the vehicle's self-containment system.
- 21. The PGDB is building a digital register with a supporting application and associated services for stakeholders. For example, CAs will use the application to make levy payments to the PGDB, record the results of vehicles inspections, and issue certificates and warrant cards.
- 22. The register will be an essential tool for enforcement and compliance. Information on the register will be used by enforcement staff from local authorities, Department of Conservation and Toitū te Whenua Land Information New Zealand to record and check whether a vehicle has a valid certification. The public will be able to search online to see whether a vehicle has a current self-containment certification.
- 23. The PGDB will support enforcement staff and CAs once they begin to be appointed by providing online information.

⁹ The Transition Fund supported the creation of new bylaws, signage and camping ambassadors (who undertake education and enforcement activities) amongst other things.

... but the build is behind schedule

24. The register was expected to go-live on 7 December 2023. However, recent third-party testing on a near-final product revealed some security issues. The PGDB is urgently seeking to address the issues, but the register application will not be accessible on 7 December 2023. At this stage, as far as we know, the impact on the system is minimal - prospective CAs will be preparing their applications and Certified plumbers need to contact the PGDB to get logged into the system before they begin undertaking vehicle certifications. However, once they are onboarded by the PGDB, they will not be able to start certifying vehicles until the register is operational.
25. We have told the PGDB that they should not launch the register until the security issues are resolved. The PGDB agrees and is working to address these issues with the Register. At the time of writing, the PGDB is unable to provide a clear timeline for going live but are keeping us updated. We will continue to update you on the progress of the Register build and any key risks, such as communication risks, that may arise.

Appointing certification authorities

26. From 7 December 2023, the PGDB will start receiving applications from people and organisations to work as CAs. This process involves the applicant providing their plans and processes for review and approval against criteria set out in Regulations.
27. We do not know how many of the current issuing authorities¹⁰ will choose to transition to become certification authorities. We think that, for those which do, it will take time for them to prepare or upgrade their systems and processes to meet the new criteria.
28. As there is no current national register of self-contained vehicles, there is a high degree of uncertainty about how many self-contained vehicles there are in New Zealand. We estimated that there are approximately 73,000 vehicles, of which approximately 5,000 are rental vehicles.¹¹ The FC Act requires self-contained rental vehicles to transition to the new regulatory system by 7 December 2024. This is six months prior to the 7 June 2025 cut off for all other vehicles.
29. There is a risk that there will not be enough vehicle inspectors to meet demand.¹² We are mitigating capacity risks through automatically deeming Certifying Plumbers as CAs and vehicle inspectors for the duration of the transition period. We will also monitor the number of certifications and liaise with the PGDB and certification authorities on certification demand.
30. If necessary, you can extend the transition period by up to 24 months to address any capacity shortfall in the vehicle certification system. This would enable more time for vehicle owners to have their vehicles certified. However, we note that the FC Act does not enable you to extend the transition date for rental vehicles.

Vehicle certifications begin

31. Following their appointment by the PGDB, CAs will begin certifying vehicles under the new regulatory system.
32. There are some key risks to highlight:

¹⁰ See **Annex One: Definitions** for information about issuing authorities.

¹¹ In 2021, we estimated there were 73,000 self-contained vehicles in New Zealand. We do not know exactly what proportion of these vehicles have fixed toilets.

¹² When the Bill was at the Select Committee, we estimated that the two major issuing authorities (New Zealand Motor Caravan Association and New Zealand Lifestyle Camping) had the capacity to certify 30,000 vehicles over an 18-month period. We do not know what the capacity in the system looks like now, however, we understand that New Zealand Lifestyle Camping has decided not to apply to be a CA.

- a. We do not know exactly how many vehicles will be certified.
 - b. We do not know exactly when people will choose to have their vehicles certified.
33. The regulated system for self-containment certification is intended to be self-sufficient. Therefore, the funds required to meet the operational expenses for the PGDB were based around an estimate of the number of vehicles that would be certified. If there are fewer vehicles certified, then either the levy will need to be increased through Regulations or the resource allocated to the system by the PGDB needs to be reduced.
34. We will monitor the uptake of vehicle certifications and the associated levy collection. We will work with the PGDB to manage levy collection risks. For example, by encouraging the public to certify their vehicles early, reprioritising underspends in current funding agreements, and/or prioritising regulatory activities.

Ongoing education and engagement

35. The PGDB will establish a stakeholder group to discuss and work through issues that arise around vehicle certification. They will also conduct education for all users of the new system. We will be monitoring issues that arise through this group as they pertain to the operation of the overall system.

Marketing and supporting local authorities over summer 2023/24

36. The PGDB will be undertaking public awareness activities with key stakeholders and the public to highlight their new role and how people can certify their vehicles.
37. Local authorities are gearing up to managing freedom camping over summer 2023/24. Some are in the process of amending current freedom camping bylaws to reflect the new laws or creating new bylaws in locations that did not previously have one.
38. We continue to support local authorities via the Transition Fund (particularly for creating or amending bylaws and providing for education and signage). We have provided councils with advice on implementing the new rules. We have also encouraged local authorities contact us with follow-up queries. We are also supporting Local Government New Zealand to create a new model Freedom Camping Bylaw.

Rental vehicle certification deadline

39. Under the FC Act, the freedom camping rental vehicle fleet must be certified under the new regulated system before 7 December 2024. This is six months before the deadline for other privately owned vehicles.

Homelessness review

40. The FC Act requires the Minister of Tourism to review its impact on homelessness. This review must start before 6 June 2025, and must be complete by 6 December 2025. Following completion, the review must be presented to the House of Representatives.
41. We will work closely with local authorities and social service providers to produce the review. We intend to work with councils to collect data on the issuing of infringements.

Emerging issue: direct ventilation of all waste tanks

42. The New Zealand Motor Caravan Association (NZMCA) recently raised an issue with ventilation requirements in the self-contained vehicles technical requirements within the Regulations. The NZMCA considers the requirement to directly ventilate all waste tanks is burdensome and unnecessary for cassette toilets. The organisation has said that this requirement will impact approximately 50,000 of its members, who would have to upgrade

their toilet cassettes to enable direct venting. We have asked for further information to understand the size and scope of this issue and identify why particular cassette toilets do not work within the Regulations.

43. The Regulation on venting toilets was made following consultation with a certified plumber and a vehicle safety standards expert from Waka Kotahi, who believed that the change to specifying direct venting was safer and more sanitary than previously and would help stop people attempting to “fix” portable toilets by cutting a vent into toilet cassette that vented directly into the vehicle.
44. We then formally consulted the NZMCA and other stakeholders on draft Regulations in June 2023. No feedback was received from any of the stakeholders about the direct venting Regulation. Thereafter, the Plumbers, Gasfitters, and Drainlayers (Self-Contained Vehicles) Regulations 2023 was made by the Governor-General.
45. As Minister for Tourism and Hospitality, you can amend these Regulations to address the issues raised by the NZMCA. This would require you to consult with people you consider are likely to be significantly affected by the regulations or their representatives, and advise the Governor-General to amend the Regulations. Please let us know whether you would like more information on amending legislation.

Stakeholders

46. We have been working proactively to keep the public and stakeholders informed of the reforms, particularly around key milestones. A detailed list of Key Stakeholders is attached at **Annex Three**.
47. You are likely to hear from both proponents and opponents of the recent reforms. The key feedback you are likely to hear is:
 - a. **Fixed toilets:** Opponents of the requirement for self-contained vehicles to have a fixed toilet are likely to ask you to remove it. There is currently a petition circulating online to this effect.¹³ We will prepare advice to you on this petition if and when required.
 - b. **The costs of certifying vehicles:** As this is a new regulatory system, vehicle owners have not previously paid a levy. There may also be a rise in the service fee that CAs charge for certifying vehicles, although these fees will be a commercial decision.
 - c. **Housing and homelessness:** the public, and occasionally local authorities, may raise issues with people experiencing homelessness who are living in vehicles, tents or other temporary structures.
 - d. **Assistance for local authorities:** The Transition Fund for local authorities ends after summer 2023/24. This is the last scheduled funding activity for freedom camping.

Next steps

48. We are happy to meet to discuss the content of the briefing and to provide additional advice on freedom camping matters. We will also provide you with a Notice to present to the House of Representatives [Aide Memoire 2324-1134 refers]. This Notice, made by the PGDB, prescribes requirements for Motor Vehicle Inspections, and is a key part of the new system.

¹³ At the time of writing approximately 2,600 people have signed the petition. It is available here: [Petition · Amend the Self-Contained Motor Vehicles Act 2023 to include portable loos · Change.org](#).

Annexes

Annex One: Definitions

Annex Two: Statutory transition period

Annex Three: Key stakeholders

Annex One: Definitions

Certification Authority: Under the SCMVL Act, certification authorities (CAs) are responsible for certifying vehicles under the regulated certification system. CAs will employ their own vehicle inspectors, who will test a vehicle's compliance with the self-contained vehicle technical requirements, which are set out in Regulations.

Fixed toilet: For the purposes of freedom camping, this is a toilet that is permanently fixed to a vehicle and which does not need to be removed to empty waste. This includes toilets plumbed to waste tanks and toilets that drain to removable cassettes.

Freedom Camping Act 2011: The key legislation for managing freedom camping on local authority, Department of Conservation and Toitū Te Whenua Land Information New Zealand land.

Issuing Authority: Under NZS 5465:2001, issuing authorities are responsible for issuing self-containment certificates, warrants, and blue stickers. Issuing authorities employ testing officers, who test a vehicle's compliance with the Standard.

New Zealand Standard *Self containment of motor caravans and caravans NZS 5465:2001*, is a voluntary standard for self-containment. It sets out requirements for water supply, sanitary plumbing and drainage installation and solid waste containment. Including a previous iteration, the Standard has been in place since 1990. Prior to the SCMVL Act, vehicles with a portable toilet could be certified. Vehicles certified under the Standard are issued with a blue warrant of self-containment and a blue sticker.

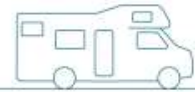
Plumbers, Gasfitters and Drainlayers Board (PGDB): Administers the registration and licensing systems of plumbers, gasfitters and drainlayers. The PGDB consists of ten members and is supported by a chief executive and 20 employees. MBIE provides monitoring of the PGDB's financial performance and its output agreement with the Minister of Building and Construction. The SCMVL Act made the PGDB responsible for regulating self-contained vehicle certifications. The PGDB's main focus is to appoint CAs and oversee their performance, and to operate a register of self-contained vehicles.

Self-containment, self-contained vehicle, is a vehicle that has been certified as having appropriate facilities in their vehicle to contain the wastewater and solid waste generated while camping. Generally, a self-containment certification enables a vehicle to freedom camp in areas where it would otherwise be prohibited from camping. A vehicle can be certified by an issuing authority under the Standard or by a CA under the regulated system for self-contained vehicles.

Self-contained Motor Vehicles Legislation Act 2023 (SCMVL Act): The SCMVL Act amends the FC Act and the Plumbers, Gasfitters, and Drainlayers Act 2006 to improve the management of vehicle-based freedom camping by creating a robust regulatory system. This regulatory system includes a regulated self-contained vehicle certification system.

Annex Two: Transition period overview

Freedom Camping Transition Period



Warrants that can be issued as evidence of self-containment: ● blue ● blue and green ● green



Annex Three: Key Stakeholders

Below is a list of key stakeholders for freedom camping:

- a. **Local authorities:** Historically, Queenstown Lakes District Council, Rotorua Lakes District Council (and others) have been very interested in the Government's freedom camping work. Many local authorities have received funding from central government to pay for camping-related infrastructure (e.g., toilets and signage), bylaw creation and freedom camping ambassadors.
- b. **New Zealand Motor Caravan Association (NZMCA):** The NZMCA is a large caravan and motorhome membership organisation, with nationwide presence. The NZMCA has a network of campsites across the country. It also offers self-containment certification to its members as well as to rental vehicle companies. It is the biggest vehicle certifier under the voluntary Standard. The NZMCA was overall supportive of the Government reforms, but has taken issue with the cost of the system.
- c. **New Zealand Lifestyle Camping (NZLC):** NZLC is part of the All Points Camping Club and specialises in self-containment certification to the public across New Zealand. It is the second biggest vehicle certifier under the voluntary Standard. NZLC opposed the Government's freedom camping reforms. The NZMCA and NZLC combined likely reflects the majority of the overall number of certifications in the system.
- d. **Responsible Campers Association Inc. (RCAI):** RCAI is a membership group focused on behavioural solutions to issues caused by freedom campers. It has historically been opposed to self-containment and the need for the reforms.
- e. **Rental Vehicle Association (RVA):** RVA is the peak body for rental vehicle companies. The association is generally supportive of the fixed toilet requirement but is unhappy that rental vehicles must transition to the new system six months before other vehicles.
- f. **Responsible Camping Working Group (RCWG):** Under the previous Government, the Minister of Tourism established the RCWG, which brought together three mayors, heads of some key camping groups, and government agencies to discuss freedom camping issues. The RCWG is not meeting regularly at present.
- g. **Tourism Industry Aotearoa (TIA):** TIA has been generally supportive of Government's freedom camping law reform. TIA produces the freedomcamping.org website, which provides useful information to visitors on camping responsibly in New Zealand.

BRIEFING

Changes to the freedom camping system

Date:	20 December 2023	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-1334

Action sought		
	Action sought	Deadline
Hon Matt Doocey Minister for Tourism and Hospitality	Agree to an approach for changing the freedom camping system.	8 January 2024

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Dale Elvy	Manager, Tourism Communities and Regions	Privacy of natural persons	Privacy of natural persons	✓
Jon Lyall	Principal Advisor, Tourism Communities and Regions		Privacy of natural persons	
Dave Fraser	Senior Policy Advisor, Tourism Communities and Regions	Privacy of natural persons		

The following departments/agencies have been consulted
N/A

Minister's office to complete:

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See Minister's Notes

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BRIEFING

Changes to the freedom camping system

Date:	20 December 2023	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-1334

Purpose

To provide you with options for making changes to freedom camping legislation and regulations. This briefing outlines the relative merits of:

- changing primary legislation (and associated regulations) to make significant system change, or
- amending regulations in isolation to address the unforeseen technical issue with ventilation requirements.

Recommended action

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

- a **Note** that we do not yet have sufficient evidence about whether the new system is achieving its aims. *Noted*
- b **Note** that initiating a change to primary legislation (and associated regulations) in the short term could create significant uncertainty and elicit calls for financial compensation. *Noted*
- c **Agree** your preferred approach to addressing primary legislation:
- a. to initiate a change to primary legislation in the short term to make significant system change, including addressing issues such as the fixed toilet requirement. *Agree/Disagree*

OR

- b. to review the effectiveness of the freedom camping system after the transition period concludes, to determine if changes to primary legislation are needed (**MBIE Recommends**). *Agree/Disagree*
- d **Note** that, if you **do not** agree to change primary legislation, there is an opportunity to address an unforeseen issue with the ventilation requirements through a change to regulations. *Noted*
- e **Note** that amending the regulations in isolation can address technical issues and is unlikely to generate significant uncertainty about the system. *Noted*
- f **Note** that amending the regulations is likely to require balancing issues of the safe and sanitary operation of a self-contained vehicle, against compliance costs and past practice.

Noted

g **Agree** to amend the regulations to address the technical issues including the ventilation requirements that has recently arisen.

Agree/Disagree

h **Note** that, based on your decisions above, we will provide you with further advice on the details and processes involved in changing the freedom camping system in the New Year.

Noted

Dale Elvy
Manager, Tourism Communities and Regions
Labour, Science and Enterprise, MBIE

Hon Matt Doocey
Minister for Tourism and Hospitality

20 / 12 / 2023

..... / /

You asked for more information on legislative reform

1. Following our briefing on the freedom camping work programme [2324-1178 refers], you requested more information on making changes to freedom camping legislation and regulations.
2. The 2023 freedom camping reforms focused on the particular concern of freedom campers who stay in vehicles that are not self-contained, and established a new regulated system for determining and overseeing the process of vehicles becoming certified as self-contained.
3. We note that the New Zealand National Party (then in Opposition) proposed amendments to the Self-contained Motor Vehicles Legislation Bill during the Committee of the whole House stage through Supplementary Order Papers (SOPs). These amendments would have:
 - a. enabled vehicles with portable toilets to be certified as “self-contained”¹⁴
 - b. required a review of the operation of the amendment Act¹⁵
 - c. deemed the New Zealand Motor Caravan Association (NZMCA) as a self-containment certification authority.¹⁶

Changing primary legislation is a significant undertaking...

4. It will be necessary to change both primary legislation and the associated regulations to action the proposals outlined in the SOPs (a) and (c) above. Cabinet conventions require Ministers to submit to Cabinet any proposal that involves new legislation¹⁷. This requires you to seek agreement to policy proposals and obtain agreement to draft new legislation, following consultation on policy options. The standard process for such a change usually takes 18-24 months, including the passage of legislation through the House. A summary of standard timeline for legislative change is included as **Annex One**.
5. The new freedom camping system was long signalled, and many businesses and individuals made investment decisions based on the new law. Changing the law so soon after it has come into effect, may elicit calls for compensation, create significant uncertainty and undermine the efforts of local government to address poor behaviour by freedom campers.
6. To this point, the government has invested approximately \$15 million on the new freedom camping system. Investments include supporting local authorities to educate the public and update their bylaws, establishing a new regulator and developing a register of self-contained vehicles. If you initiate a change to primary legislation, local authorities and the regulator will likely expect further investment from government to cover the costs associated with this¹⁸.
7. As the new freedom camping system has only recently commenced, and because there is an 18-month transition period before the old system is phased out, it will be some time before we have evidence about whether it is achieving its aims.
8. We recommend you consider a review of the freedom camping system after the transition period has concluded, and once we have gathered evidence about the impact the new system has had, to best assess how effective the changes have been. Such a review would

¹⁴ Supplementary Order Paper No. 356;

<https://www.legislation.govt.nz/sop/members/2023/0356/latest/whole.html#LMS843554>

¹⁵ Supplementary Order Paper No. 355;

<https://www.legislation.govt.nz/sop/members/2023/0355/latest/whole.html#LMS843546>

¹⁶ Supplementary Order Paper No. 345;

<https://www.legislation.govt.nz/sop/members/2023/0354/latest/whole.html#LMS843539>

¹⁷ Cabinet Office, *Cabinet Manual*, (2023) at 5.12(h).

¹⁸ The Regulator has budgeted based on expected levies. Changes to the system are likely to impact these calculations and mean that the regulator seeks additional support from government.

be in-line with the aim of the SOP (b) above, but would be directed by you as the Minister, rather than incorporated into legislation.

9. This approach is recommended as it would continue to provide clarity for businesses, campers and local authorities, enable the regulator time to establish their processes and the new freedom camping bylaws to come into force. The review could then consider evidence about the effectiveness of the new system, incorporate the findings of the review into homelessness (which is required by the Act), as well as whether amendments such as those set out in the SOPs (a) and (c) should be adopted. It would also provide an opportunity to address any other issues that have arisen.

...while a change to regulations alone is more straightforward.

10. In our briefing on freedom camping work programme [2324-1178 refers], we noted an emerging issue relating to the venting of toilets in self-contained vehicles as set out in regulations. We subsequently met with the New Zealand Motor Caravan Association (NZMCA) and following these discussions, we understand that despite being a member of our technical reference group in 2021-2022 and being consulted on the full exposure draft of the regulations in June 2023, the NZMCA did not understand the implications of the venting requirements until very recently.
11. This stemmed from a misunderstanding between officials and the NZMCA. We used the language in the voluntary standard as a basis for the new regulation, assuming this was the current process used by the NZMCA when certifying vehicles. However, the NZMCA have subsequently advised us that they had long exempted cassette toilets from this requirement, based on their interpretation of the voluntary standard and their practical experience. This means that many vehicles currently certified as self-contained by the NZMCA would not be able to be certified under the new system without significant modification.
12. The NZMCA has said that, given the scale of this change for its members, it may not apply to become a Certification Authority under the new system. This could significantly undermine the new system as the NZMCA perform the bulk of vehicle inspections under the voluntary standard. The issue of venting has since been raised by other groups and individuals.
13. This issue could be addressed through a change to regulations alone, to create an exemption for cassette toilets from the venting requirements and any other minor technical improvements. The standard process to change regulations involves seeking Cabinet agreement to consult on a discussion document, undertaking consultation and then returning to Cabinet for agreement to the new regulations¹⁹. Based on standard timelines, changing regulations could be expected to take six months, plus implementation time for the regulator, the Plumbers, Gasfitters and Drainlayers Board (PGDB), to change their guidance and motor vehicle requirements Notice. A summary of standard timeline for regulation change is included as **Annex One**.

¹⁹ When consulting on Regulations, the Minister must consult with those they reasonably believe to be impacted by the changes.

Summary of legislative reform options

Option	Scope	Considerations
Change to primary legislation and regulations	<ul style="list-style-type: none"> • Opportunity to change any part of the legislation (such as the requirement for a fixed toilet). • Could allow SOP amendments to be addressed. • Likely to take 18-24 months. 	<ul style="list-style-type: none"> • May create uncertainty for businesses and individuals and undermine the work of local authorities until passed. • May elicit calls for financial support to compensate for costs. • Requires Cabinet, House and Select Committee time.
Change to regulations only	<ul style="list-style-type: none"> • Opportunity to change specific system details (such as venting requirements). • Does not address SOP amendments. • Likely to take 6 months. 	<ul style="list-style-type: none"> • Likely to satisfy the NZMCA who otherwise may undermine the new system. • Unlikely to satisfy opponents of new freedom camping system. • Requires Cabinet time.

Risks

14. Any changes to the self-contained vehicles system so soon after it has come into effect will generate uncertainty and may undermine compliance with the law. If you wish to progress with wider system change through primary legislation change, this period of uncertainty will be much greater and potentially elicit requests for financial support from government to meet the costs of those who have acted in good faith to comply with the new system.
15. Making changes to regulations alone is likely to satisfy the NZMCA and ensure it supports the new system, but it will not satisfy the small number of vocal opponents of the new freedom camping system. Through the consultation process you are likely to be asked to balance issues of the safe and sanitary operation of a self-contained vehicle, against compliance costs and past practice of vehicle owners. There is unlikely to be clear evidence for either course of action.
16. Regardless of your preferred approach, we consider that it is important to provide as much clarity and direction to the sector as possible of the Government's intent regardless of your preferred approach. We will support you in any communications with the sector.

Next steps

17. If you agree to change primary legislation and regulations in the short term, we will prepare the following:
 - a) A briefing outlining potential issues which could be changed through legislation, including the SOP papers summarise in paragraph 3. This paper will inform a discussion document on policy options, which would be considered by Cabinet next year.
 - b) A proposal for a Bill to be included in the Government legislation programme²⁰. The Cabinet Legislation Committee assigns priority based on the proposals and we expect the Cabinet Office to circulate an invitation to Ministers' offices in February.
18. Alternatively, if you agree to undertake a review of the freedom camping system after the transition period has concluded, we will prepare communications materials to support your

²⁰ *Cabinet Manual*, (2023) at 7.10.

discussions on this in the short term and prepare Terms of Reference for the review in due course.

19. If you do not agree to change legislation, and make a change to regulations only, we will prepare a briefing that outlines issues that could be amended through this process and the relevant considerations likely to be raised during consultation. This paper will inform a discussion document on policy options which would be considered by Cabinet next year.

Annex One: Indicative timelines for change options

Stage	Option 1: Amend primary legislation/regulations	Option 2: Amend regulations
Legislative programme bid	Invitations are likely to be sent in the New Year	Not required for regulations
Policy design work*	March 2024	February 2024
Public discussion document finalised	April 2024	Early-March 2024
Cabinet agreement to release discussion document	May 2024	Late-March 2024
Discussion document consultation period	May - June 2024	Late-March – Mid-April 2024****
Summary of submissions presented to you	July - August 2024	End of April 2024
Finalisation of policy proposals and writing RIA	September 2024	End May 2024
Cabinet agreement to policy proposals and issuing drafting instructions	October 2024	Mid-June 2024
PCO drafting**	February - June 2025	Approximately 4 - 8 weeks depending on complexity
Cabinet agreement to new Regulations	N/A	Mid-August 2024
New Regulations in force	N/A	Mid-September 2024
Cabinet agreement to Bill/Introduction of Bill to Parliament	July 2025	N/A
Enactment into law	April 2026***	N/A
Implementation activities		September - October 2024 (PGDB Notice and guidance).

* Likely to be iterative and will ultimately scope the nature of the proposal. Will involve a series of policy briefings to you.

** Timing dependant on scope of drafting and PCO capacity.

*** Timing Dependant on House priorities (assumes a standard six month select committee process).

**** You must consult people you consider are likely to be significantly affected by the regulations (or representatives of those people), Section 172C, Plumbers, Gasfitters and Drainlayers Act 2006.