

Attachment B

Kaipara District Council's submission to: 'Proposed changes to support effective management of freedom camping in New Zealand' – April 2021

Introduction

To date, Kaipara District Council (Council) has not chosen to develop a bylaw to assist in controlling freedom camping activities in our District. However, this matter has been raised consistently as an issue by residents and elected members as a concern, predominantly over the last five to six years.

While there are currently no plans for a bylaw for the District, staff and elected members are keeping a 'watching brief' on the issue and it is entirely possible that the scale of freedom camping related issues will increase to a level where a bylaw may be warranted in the next few years.

The Ministry of Business, Innovation and Employment's Discussion Document provides that the current proposal is strictly limited in scope and excludes wider reforms to the Freedom Camping Act 2011 (the Act). Council's submission is therefore limited to the matters available for comment, noting that Council would have preferred to see a broader review of the Act and its provisions.

Submission

Council has reviewed the Discussion Document with the stated scope in mind and comments as follows on the four proposals.

Proposal 1 vs Proposal 2

Council supports Proposal 2. It is well documented that freedom campers are confused by the lack of nationwide rules on the matter and Proposal 2 supports responsible freedom camping by significantly simplifying these rules, which would in turn result in a much greater level of understanding and therefore compliance. It would very much simplify enforcement matters for Council enforcement staff, potentially even without an individual freedom camping bylaw.

Research and dialogue with other councils who already restrict non-self-contained vehicles to locations with public toilets indicates this system works relatively well.

Proposal 2 is preferred over Proposal 1 also due to concerns about unintended consequences of completely restricting non-self-contained freedom camping. It is anticipated that some non-self-contained freedom campers would still choose to freedom camp, dispersing themselves in various locations across the District and this may create a greater issue for enforcement and monitoring staff, rather than increased compliance overall and a reduction of complaints and concerns.

For both Proposals 1 and 2, there are some concerns about how such new provisions would be incorporated into the current system. Regardless of which proposal is chosen, this should be enforceable by Council staff without the need for a freedom camping bylaw, it is unclear in the proposal whether this is intended or not. Should Proposal 1 be the preferred option, it is of concern that this does not address freedom camping in tents. A potential further unintended consequence is that non-self-contained freedom campers in vehicles would then merely choose to pitch a tent instead of sleeping in their vehicle.

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While exceptions in accordance with section 5(2) of the Act~~exception~~ for Proposal 1 are~~is~~ supported in principle, these matters should be more clearly defined and clarified in the legislation to ensure that Council staff can confidently enforce. Problems with these exceptions~~definitions~~ currently exist and may be exacerbated with the refinements proposed. It is also unclear why these exceptions would not apply to Proposal 2, which would potentially cause further unintended consequences. A more clearly articulated exception for Proposal 2 is supported, including a definition of a Regional Park as well as Public Conservation Land and clarity on the powers for the administering bodies of this type of land to regulate for freedom camping.

Proposal 3

Council strongly supports the proposed introduction of a regulatory system for the Self Containment Vehicle Standard (SCVS). The lack of central government oversight on the current system and associated concerns has been well-documented, including as part of the Report of the Responsible Camping Working Group to the then Minister of Tourism in 2018 as well as the wider work undertaken by elected members and council staff at that time.

Council is very supportive of the element of this proposal that would make rental companies responsible for any infringement fines issued. This will go a long~~long~~ way to ensuring appropriate education and documentation is provided by rental companies at the time of hire and would work well in conjunction with the other components of the wider proposals.

Allowing local authorities to enforce rules on other government owned land is strongly supported in principle, but careful consideration of the details and the mechanisms by which this can be achieved, and enforcement action taken, is recommended. While such a system will support the drive to simplify the system for campers and administering bodies of public lands, Council is concerned that without clearly articulated provisions, we will have additional responsibilities but without associated clarity of how to manage these.

Council has some concerns relating to the vehicle confiscation option provided. Council already has powers to tow vehicles under other legislation, but this power is time-consuming and difficult to apply, and Council is doubtful whether an additional tool would be easier to apply and use, thus creating expectations that are challenging to meet.

Council has no direct experience of infringement fines and therefore is limited in its ability to comment on whether the infringement fines should be increased. It is however noted that the Discussion Document considers an increase in fine may assist councils in recovering the cost of enforcement activities, Council considers it unlikely that a better balance between costs of enforcement and infringement fees is achievable when considering other infringement mechanisms and the associated costs available to Council for other matters.

Proposal 4

It is somewhat unclear how Proposal 4 links to the proposed introduction of the regulatory system for SCVS. As stated, Council strongly supports a more regulated system for this, which should also include clarity on who can provide certification (be an issuing authority) and an associated central register of SCVS that councils can use to support enforcement activities.

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As outlined in the Discussion Document and the report of the Parliamentary Commissioner referenced therein, as well as the previously mentioned 2018 Report, the ambiguity regarding what is a self-contained vehicle and who administers the associated system is of considerable concern. Council is very supportive of any improvements that provide better clarity for both freedom campers as well as enforcement staff to support responsible freedom camping.

This part of the proposal is also asking whether the standard itself should change in terms of what type of toilet should be permitted in the standard. Council considers that providing an appropriate regulatory system is in place that ensures the requirements of the current standard are met, that there is no need for a more restrictive definition of 'toilet'. It would be very costly for people to upgrade to a 'fixed' toilet from their current systems. The key elements of the standard in that the toilet is secured while travelling and accessible while the bed is made and allowing for head and elbow room could however be enhanced by including appropriate wording to say that the toilet must be able to be used within the vehicle in a position or in a manner that allows for privacy of the user at all times, regardless of where the vehicle is parked at the time of use.

Other considerations

Council agrees with the concerns raised in the Discussion Document regarding the desire to not further disadvantage vulnerable population groups and specifically homeless people. Council strongly supports consideration of the proposal in its final form to ensure that at a minimum, homeless people are clearly not further disadvantaged. Ideally however the proposal should include mechanisms to clearly articulate that homeless people are not considered freedom campers for the purposes of the legislation.

In terms of transition arrangements, Council acknowledges the potential difficulties faced to upgrade vehicles (both private owners as well as rental vehicle companies), however Council would not like to see any transition periods extended for an unreasonable time, as this may create community expectations that are challenging to deal with.