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Christchurch City Council submission on the discussion document: Supporting sustainable freedom camping in Aotearoa New Zealand

Introduction

Christchurch City Council (the Council) thanks the Ministry of Business, Innovation and Employment for the opportunity to provide comment on the discussion document: *Supporting sustainable freedom camping in Aotearoa New Zealand*.

We wish to acknowledge our support for the submission from the Canterbury Mayoral Forum, which makes a number of similar points to our submission.

We set out some general comments below, and the attached document discusses the proposals in the discussion document in more detail.

Comments

Like many councils, we have struggled to find a comfortable balance between accommodating campers and responding to the concerns of our residents within the current legislative settings.

The continued frequency of news articles about freedom camping issues, the number of amendments to freedom camping bylaws, and the judicial challenges of several bylaws all suggest that the current legislative settings are not serving councils or their communities well.

The Council is broadly supportive of the proposals to improve the regulatory tools and reduce the negative impacts associated with freedom camping, but we believe further changes are needed.

Vehicle size for self-containment

We commend MBIE for addressing the issues that arise from vehicle-based camping, particularly the adequacy of toilets in self-contained vehicles. However, we think a key issue that has not been well-canvassed in the discussion document is vehicle size.

The primary issue is not the type of toilet in a vehicle, but the type of vehicle the toilet is in. A toilet within a small vehicle simply will not be used (MBIE's data confirms this). Privacy and space are required. We need a higher standard for a vehicle to be considered self-contained, and key

requirements should include standing height within the vehicle and that the toilet is in a separate, private and ventilated space. The standard should be lifted to better reflect 'Brand New Zealand'.

A frequent concern from communities in our district is the appropriation of public space by freedom campers. This largely arises from campers in smaller vehicles having to spill out into public areas to undertake their daily activities. We think this is another key issue that could be addressed by linking self-containment and vehicle size.

In our submission we argue that changing the self-containment requirements so that only larger vehicles could be considered self-contained (and making self-containment mandatory for freedom camping), will reduce negative behavioural impacts, friction in communities, and environmental damage.

Supporting and better utilising camping grounds

Camping grounds should be better recognised and supported. They are an important part of the tourism industry, and they need to be more explicitly considered in the context of updating the Freedom Camping Act.

Councils should not be expected to operate in competition with camping grounds by providing similar facilities, especially not when appropriate low-cost facilities are available at camping grounds. Ratepayers (including camping ground operators) should not be expected to fund facilities so that unequipped campers can stay for free in public places. Car parks and other public areas should not become default camping grounds.

Flipping the Act – camping prohibited, unless allowed by bylaw

We are commenting largely with urban, residential or small settlement areas in mind, not the great outdoors or wide open spaces. The Act applies equally to these very different contexts. We think that acknowledging this is part of the solution to adjusting the settings in the Act.

Arguments about protecting the kiwi way of life and the right to camp for free apply largely to the great outdoors (hunting, fishing, tramping, surfing; pitching a tent for a cheap family holiday). These arguments don't apply in cities, towns and settlements, and especially not in residential areas.

We would like to see a "flip" of the Act in cities, towns and settlements in relation to our bylaw-making powers. We would like to see freedom camping prohibited in cities, towns and settlements, unless a bylaw enables it in specific locations.¹

Suitable locations for accommodating vehicle-based campers could be specified in freedom camping bylaws (eg appropriate parking areas near commercial centres, restaurants, entertainment areas, visitor attractions, etc). This would enable good access for travellers, and

¹ We have included settlements in this list as we have many rural settlements made up of clusters of homes with no retail or service offerings, where freedom camping can cause negative impacts on residents (eg Wainui or French Farm on Banks Peninsula). We also have small towns that service rural communities, as well as towns with a clearer tourism focus and offering, such as Akaroa.

would give councils a greater ability to determine the areas within their district that are appropriate for freedom camping.

We need an ability to balance the public space used for vehicle-based campers with the parking and access needs of other visitors, and of locals.

If the bylaw-making powers were adjusted to enable greater protections for our residents (or the Act was flipped in cities, towns and settlements), this would be very helpful.

Conclusion

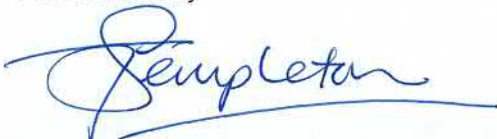
We would like to see freedom camping opportunities balanced with environmental, social and cultural values, so that we have enjoyable places to live and visit, and a sustainable tourism industry.

Thank you for the opportunity to provide this submission. We hope these comments will be taken into account and reflected in positive changes to the Freedom Camping Act.

For any clarification on points within this submission please contact Teena Crocker (Senior Policy Analyst, Strategic Policy and Performance Group: Teena.Crocker@ccc.govt.nz).

Please find the remainder of our submission attached.

Yours faithfully



*Councillor Sara Templeton
Chair, Sustainability and Community Resilience Committee
Christchurch City Council*

Context and background – Christchurch City Council:

1. We make our comments with the following in mind:

- We have a [freedom camping bylaw](#) that largely focuses on addressing freedom camping issues in or near residential areas. There is strong public support for our bylaw, and some of our communities have ongoing concerns about freedom camping impacts.
- Concerned communities and negative impacts from freedom camping tend to be concentrated in our coastal settlement areas.
- Our freedom camping bylaw has been amended twice, and we are currently partway through its five year review. The costs to councils associated with developing and updating freedom camping bylaws are not well reflected in the discussion document.
- Concerns expressed by our communities relate to the following: high numbers of campers in a location (concentration and cumulative impacts); how often campers stay (frequency); campers staying too long (duration); environmental damage (rubbish and toileting); damage to infrastructure (public toilets, drinking fountains); and concerns about camping activities dominating public places and preventing access for others (access to parking).
- Camping vehicles not being properly self-contained and campers not using their on-board facilities are also common themes.

Proposals one and two: Make it mandatory for freedom camping in a vehicle to be done in a certified self-contained vehicle OR make it mandatory for freedom campers to stay in a vehicle that is certified self-contained, unless they are staying at a site with toilet facilities

Proposal 1: Mandatory self-containment: **Support**

2. We support making it mandatory for freedom camping in a vehicle to be undertaken only in a certified self-contained vehicle (provided what constitutes a certified self-contained vehicle is improved in line with our comments above and below).
3. We have required freedom campers to use only certified self-contained vehicles in our district since 2016. Despite this requirement in our bylaw, we still have freedom camping issues. These issues largely arise from campers in smaller vehicles that cannot accommodate their daily domestic activities within their vehicle.
4. Genuine self-containment involves the facilities, space and height to be able to undertake daily domestic activities within a vehicle. (See our later comments on self-containment).

Proposal 1: Camping in tents: **Do not support**

5. We share the concerns of the Canterbury Mayoral Forum about the “loophole” created by this proposal. Our bylaw prohibits camping in a tent, and only allows freedom camping to be undertaken in certified self-contained vehicles. We would not want this to change.
6. One of the acknowledged problems with the current settings is a lack of consistency across districts. Enabling freedom camping in tents, unless prohibited in a bylaw, would contribute to continued inconsistency. It may also encourage “budget” campers to continue to camp in ways that negatively impact on the environment and on communities.

Proposal 2: No self-containment requirement if near a toilet: **Do not support**

7. The presence of a toilet does not guarantee its availability for use at all times. Many of our public toilets are locked at night to prevent vandalism and other antisocial behaviour. We strongly oppose this proposal. If campers do not have an on-board toilet they can use, they should stay at a camping ground which has facilities for this purpose.
8. We would not want to see a default setting in the Act that required us to indicate which toilets were open at all times in a bylaw. This would be impractical. We have 167 public toilet blocks in our district, over 80% of which are locked at night to prevent vandalism. We have 37 other public toilet blocks that are part of sports pavilions, which are unlocked as needed, and locked overnight.
9. A further complication is that many of our public toilets are located on land that is managed under the Reserves Act 1977. Section 44 of the Reserves Act (unauthorised use of reserve) prohibits camping in reserves.² We would strongly argue against opening up these reserves or their parking areas for freedom camping. (See later comments on practical inconsistencies between the Reserves Act and the Freedom Camping Act)
10. Public toilets may also be located in areas where access is prevented at night. For example, by barrier arm or chain, to stop vehicle access and prevent damage or vandalism.
11. Additionally, neighbourhood and sports parks with toilet facilities are well utilised at weekends for sporting and club events and competitions. If these parking areas and toilet facilities were available for freedom camping, it could limit access for our communities for these important and healthy activities.
12. Campers without on-board facilities should not be allowed to camp in public places. Toileting is not the only issue that arises from smaller vehicles being used for freedom camping. If campers do not have the on-board facilities to accommodate their daily domestic needs, they should stay at a camping ground, not in public areas with toilet facilities. (See later comments on the “spill out” impacts from campers in smaller vehicles)
13. If the Act enabled freedom camping only in properly self-contained vehicles, and camping in other vehicles was prohibited unless enabled by a bylaw in specified locations (eg where facilities are available and accessible overnight), this could be workable.

Distance from toilet: **Suggestion** – toilet must be within 75 metres of camping location

14. Although we do not support this proposal, if a distance from a toilet is to be specified, we would recommend not more than 75 metres, to align with the Building Code (3.4.2), which reads: *In camping grounds sanitary fixtures shall be located no more than 75 metres from any caravan or campsite.*

² Section 44: Unauthorised use of reserve: (1) Except with the consent of the Minister, no person shall use a reserve, or any building, vehicle, boat, caravan, tent, or structure...for [the] purposes of permanent or temporary personal accommodation...

Proposal three: Improve regulatory tools for government land managers

- Regulatory system for self-contained vehicles
- Stronger infringement scheme.

Nationalised and improved system for certifying self-contained vehicles: **Support**

15. Improvements in the requirements for a vehicle to be considered self-contained; consistency in how self-containment is determined; a better system for certifying self-contained vehicles; a national register recording those details; and a national body with oversight; are all excellent approaches that we support.
16. However, we make the following suggestion in relation to self-containment, which might make the entire system less complicated.

Requirement for self-containment: **Suggestion**: Specify internal vehicle height

17. Given the current standard for self-containment enables relatively small vehicles to be considered self-contained (and that these are well-recognised as contributing to the freedom camping problem), a simpler and more cost-effective change could be to specify an internal vehicle height for self-containment.
18. This would mean people movers, vans and other smaller vehicles would no longer be able to be certified as self-contained. We believe this, as well as a more practical and hygiene-based approach to toilet requirements (separate, private, ventilated space within a vehicle), would go a long way to addressing the vast majority of issues associated with poorly equipped freedom camping vehicles.

Infringements: Increased infringement fines: **Do not support**

19. We do not support a large increase in the amount of the infringement fine for breaching a bylaw. A slight increase to \$300 for a breach of a freedom camping bylaw may be appropriate, but a larger increase would not be helpful.
20. We are concerned at the suggestion in the discussion document that infringement fines are for cost recovery purposes.³ They are not. They are intended to serve as a proportionate penalty and deterrent to low-level offending.
21. We do not believe that a fine of \$1,000 would align with the Ministry of Justice policy framework on infringement schemes, which sets out the following: *“An infringement scheme provides an administratively efficient method of encouraging compliance with the law by imposing a set financial penalty following relatively minor breaches of the law”*.⁴
22. The material effect of increasing infringement fines to \$1,000 would be fewer fines being issued, and of those, a greater proportion being challenged in the District Court. This would require greater resources for councils and increase our administrative burden.

³ Although the infringement fee goes to a council, in reality the fee contributes very little of the real costs of monitoring and enforcement, and is not the purpose of the fee.

⁴ <https://www.justice.govt.nz/assets/Documents/Publications/infringement-governance-guidelines.pdf>

23. The other changes proposed are more likely to result in better behaviour than increasing fines (eg consistency around self-containment requirements).

Infringements: **Suggestion:** Infringement issued to registered owner of vehicle

24. Enabling an infringement fine to be issued to the registered owner of a vehicle may support better payment of fines. There is precedent for this in other transport legislation, which can provide a 'template' for addressing the issue in the Freedom Camping Act.⁵
25. Increasing the simplicity of issuing infringement notices and reducing the administrative burden of challenges will reduce the costs to councils and therefore ratepayers.
26. This will help by making rental companies liable for the payment of infringements (which they can then recoup from the customer responsible). This would make things simpler for councils. This may also incentivise sellers of privately-owned camping vehicles to ensure the prompt submission of change of ownership documents.

Infringements: **Suggestion:** New infringement in relation to fire lighting

27. The fire risk posed from freedom campers lighting cooking or camp fires, or inappropriately using gas cookers, is often raised with us. Concerns have been raised about campers being unfamiliar with prevailing winds, the dryness of vegetation and the standard safety protocols for fires and gas cookers. More often than not this is in a rural context, where firefighting is already challenging, and where there are outstanding natural landscapes, conservation areas, high biodiversity values and productive farmland.
28. We wonder if a new infringement offence could be added to the Act in relation to setting up or lighting camp or cooking fires while freedom camping (or when a fire season has been declared by Fire and Emergency New Zealand).
29. If enforcement officers already undertaking freedom camping monitoring and enforcement roles were able to infringe for fire lighting under the Act (as they can for damage to flora, discharging waste, etc), it would be helpful, and may prevent environmental damage or disaster.

Impounding and wheel clamping: **Do not support**

30. This is not a viable option. Rendering someone's accommodation and transport immovable, or inaccessible, would be extremely problematic. Such an approach would raise New Zealand Bill of Rights Act issues. The safety of enforcement staff may be put at risk. This would be impractical in rural or remote areas. The administrative and practical costs for councils would be high. We strongly oppose this proposal.

Enforcement on non-Council land: **Comments**

31. How this would work in practice is not clear from the discussion document. It's unclear whether the bylaw-making powers would change to be able to apply to land other than "local authority area" land, or whether the proposal would enable enforcement of the Act on non-council land. Some thought would need to be given to cost arrangements to ensure councils were appropriately compensated if this were to go ahead. Amending bylaws to extend the land

⁵ For example, from speed cameras.

regulated by the bylaw would come with additional costs to councils, which would also need to be considered.

Definition of local authority area

32. Under the Freedom Camping Act, bylaws can only be made in relation to local authority area land, that is, land “controlled or managed by or on behalf of the local authority under any enactment”. We are unsure why “under enactment” is part of the definition, and not just land owned or managed by a local authority. If this was removed, it may make things simpler for councils making bylaws.

Inconsistencies in approaches to sleeping in vehicles

33. There are policy differences in how Waka Kotahi and councils view sleeping in vehicles. Waka Kotahi’s focus is enabling, based on driver fatigue. The line between sleeping to manage fatigue, versus sleeping for recreational purposes, can be blurred.

34. Our bylaw prohibits freedom camping unless it is in a certified self-contained vehicle, yet drivers are able to camp at rest stops in our district without being self-contained, and where there are no facilities. This results in negative environmental outcomes, and confuses and frustrates the public, especially those in neighbouring properties.

35. If self-containment was required in order to freedom camp on any public land near a road, this would no longer be an issue.

Proposal four: Strengthen the requirements for self-contained vehicles

- **What types of toilets are suitable?**
- **What types of vehicles are suitable?**

Self-containment: **Suggestion:** A toilet should be in a private space within the vehicle and the vehicle should enable standing height

36. Our view is that the primary issue is not the type of toilet in a vehicle, but the type of vehicle the toilet is in. Unless a toilet is in a vehicle with standing height, and it is in a separate, private and ventilated space, a toilet is unlikely to be used.

37. We should not accept or create a regulatory environment that enables cooking, sleeping and toileting in the same small space. This currently occurs in vans and people-movers and other smaller vehicles that can be certified as self-contained. These activities should be separated for hygiene reasons, as well as for practical purposes.

38. Some time ago New Zealand put in place a requirement to separate “soil fixtures” from kitchens and spaces used for food preparation and storage. This should be reflected in self-containment requirements.

Building Code: 3.2 Access to food and work areas. 3.2.1 In household units, at least one door shall be provided between a soil fixture and a kitchen or a place for food storage. 3.2.2 In buildings other than household units, no space containing a soil fixture shall open directly into: a) A space used for the storage, preparation, sale or consumption of food

39. How to manage practical privacy concerns, odour and ventilation issues, and hygiene considerations should be well-thought-out, and the requirements for self-contained camping vehicles should reflect an appropriately high standard (and ‘Brand New Zealand’).

40. In our view, a self-contained vehicle would require a toilet in a separate space within a vehicle. The space would enable privacy, and have handwashing facilities, ventilation and standing height, eg as part of a small bathroom space or a toilet cubicle, such as those in motorhomes.
41. This means only larger vehicles would be able to be certified as self-contained. This would also help to reduce other negative impacts from smaller vehicles, including domestic activities spilling out into public areas or into public facilities.

Self-containment: Suggestion: Small vehicles are unable to accommodate daily needs

42. Freedom camping issues often arise from campers spilling out of their vehicle because it cannot accommodate their daily domestic needs. These spill-out impacts create friction in our communities. The spill-out impacts on:
 - the natural environment (recreation areas, parks, road reserve, sand dunes and beaches);
 - the built environment (roads, parking areas, footpaths, public facilities)
43. Public facilities are not designed to meet the daily domestic needs of people. They are not intended to function as dishwashing or food preparation areas, as showers or as laundry facilities, but public toilets are often used for these purposes by campers in smaller “self-contained” vehicles.
44. These spill-out impacts present health and safety issues in parking areas where vehicles are manoeuvring (eg needing to have the boot open in a vehicle in order to access or use the kitchen), and create hygiene issues and damage to facilities (eg when people use bathroom hand basins for kitchen activities, or wrench basin taps sideways to fill large water storage bottles).
45. Camping grounds provide all the facilities a camper in a smaller vehicle requires, and public areas should not be altered to become default camping grounds.
46. If we consider the general definition for self-containment (a vehicle capable of meeting the sanitary and ablutionary needs of its occupants for three days without any external services or discharging any waste) small vehicles simply cannot comply.

Additional comments and suggestions:

- **Bylaw making powers**
- **Need for better alignment with Reserves Act**
- **Better support for camping grounds**
- **Transitional arrangements for bylaws**

Suggestion: Change bylaw-making power to enable the protection of residents

47. If a flip of the Act⁶ is not possible (either completely, or only in urban areas), we’d like to see one of the bylaw-making powers changed to enable us to protect residents, not just visitors to an area.

⁶ If the Act were “flipped”, the key principle would be reversed so that freedom camping is prohibited unless expressly permitted by a council (rather than the current default setting allowing it anywhere except areas it is restricted or prohibited). This would give councils greater ability to determine the areas that are appropriate for freedom camping.

48. The Act enables councils to regulate freedom camping to “*protect the health and safety of people who may visit an area*” – section 11(2)(a)(ii). This implies the area has no people other than visitors, or that the only area affected is the public space. We would like to be able to regulate to protect people who live in or near an area - the residents.
49. This relates to an earlier point we made about the Act (and commentary in relation to it) envisaging the great outdoors and landscapes of natural beauty, not suburban and residential areas.
50. Ratepayers, especially in coastal areas, are frustrated with the impacts of freedom camping happening outside their homes (concentrated numbers, cumulative impacts, frequency of campers, duration of stay, rubbish and toileting impacts, damage to infrastructure, reduced access to parking, etc). If the bylaw-making powers in the Act enabled us to protect residents, this could be helpful.

Suggestion: Need to address inconsistencies with the Reserves Act

51. There is a need to address the inconsistencies between the Reserves Act 1977 and the Freedom Camping Act 2011 – this is problematic for councils, and it is complicated.
52. Parcels of land managed as parks and reserves by councils may appear similar, but have differing legal statuses. Associated parking areas may be included in a reserve land parcel, or they may be part of the road reserve or have a different legal status, meaning in some cases camping is prohibited by the Reserves Act, and in other cases it is not, which leads to confusion.
53. A key issue is that section 44 of the Reserves Act prohibits camping in reserves, but there is no infringement fine available. Good law-making practice would not see us also prohibit camping under a freedom camping bylaw (so that we could issue an infringement notice) when camping is already prohibited under the Reserves Act. Yet if land is only regulated under the Reserves Act we have no power to infringe a camper.
54. If a breach of section 44 of the Reserves Act was an infringeable offence, this could help, or if the Freedom Camping Act applied to land managed as a reserve (without the need to explicitly include it in a bylaw), this could also help.

Suggestion: Regulating to protect camping grounds

55. The settings in the Act need to be adjusted to better support (or not work in opposition to) camping grounds.

Competition with camping grounds

56. Councils should not be expected to provide facilities in competition with camping grounds. Appropriate low-cost facilities already exist. Nor should councils be expected to provide facilities (or clean-up) for freedom campers (at a cost to ratepayers), while nearby camping grounds sit empty.

Inability to regulate freedom camping to protect camping grounds

57. There is nothing in the current Act that enables councils to prohibit freedom camping near camping grounds or in the vicinity of other accommodation providers (it is not one of the bylaw-making powers).

58. If an exclusion zone around camping grounds were included in the Act in relation to camping grounds, or bylaws could prohibit freedom camping with certain distances of camping grounds, this would be very helpful.
59. We have a camping ground where a wide road reserve sits between the camping ground and the sea. There is plenty of parking space on the roadside. We have no grounds to prohibit freedom camping in this area under our bylaw, so people can freedom camp right outside the fence of the camping ground. This causes frustration for those staying at the camping ground, and for the camping ground operators. This is a good example of the settings in the Act needing some adjustment.
60. Another issue we are aware of is freedom campers staying near camping grounds and sneaking in to use facilities, especially at night (for example, hot showers). Camping grounds are having to increase their security to prevent this from occurring.

Camping-Grounds Regulations

61. We note that a review of the Camping-Grounds Regulations is out of scope, but there is merit in considering how charging mechanisms could work to recoup costs in exchange for the provision of facilities and services for campers (eg when self-contained campers stay on public land in designated areas, with no nearby camping grounds).
62. Legitimising charging for overnight stays in vehicles (sometimes managed as an “overnight parking fee”) could make responsible camping in cities and towns more acceptable to communities, and better support councils.

Suggestion: Transitional arrangements for bylaws

63. When the final form of the policy changes has been agreed, thought should be given to how councils will reflect any changes in their freedom camping bylaws.
64. A simplified process for amending bylaws may be helpful (for example, administratively amending bylaws to align with the revised Act,⁷ rather than undertaking a special consultative procedure – although this would be dependent on the extent and nature of the changes).

Conclusion

65. We have collectively experienced and learned a lot since the Act was speedily brought in in 2011. These real life examples and the frustrations of our communities need to be considered and the Act adjusted so that conflict around freedom camping is reduced, and we have better environmental outcomes.

⁷ An example of this is the Fire and Emergency New Zealand Act 2017 (section 152B, Effect of Fire and Emergency New Zealand Act 2017 on bylaws).