



BRIEFING

Outstanding policy decisions on tent definitions and transitional funding

Date:	28 September 2021	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2122-0966

Action sought		
	Action sought	Deadline
Hon Stuart Nash Minister of Tourism	Agree the proposed definition of a tent as set out in this briefing Agree funding to support management of freedom camping throughout the transition period	4 October 2021

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Saskia Vervoorn	Manager, Tourism Policy	04 896 5723	Privacy of natural persons	-
Fraser Pearce	Senior Policy Advisor, Tourism Policy	04 897 5174	Privacy of natural persons	✓
Chloe Miller	Graduate Policy Advisor, Tourism Policy	04 901 4166	-	-

The following departments/agencies have been consulted
The Treasury

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Withdrawn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

To seek your agreement to policy decisions arising from questions raised at the Responsible Camping Working Group meeting which you attended on 7 September 2021.

Recommended action

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

- a **Note** that at the Responsible Camping Working Group meeting on 7 September 2021, two of the key issues raised at the meeting were how tents will be considered under the proposed changes and interim funding for councils

Noted
- b **Agree** in principle to establish a fund to support councils during the transition period prior to the full implementation of the freedom camping proposals, covering two summers from December 2022

Agree / Disagree
- c **Note** that future advice on the transitional fund will include information on how funding will be transferred within Vote Tourism, as well as detailed advice on the design of the fund

Noted
- d **Agree** that the definition of a 'tent', for the purpose of exclusion from the proposed reforms, should be defined as any temporary structure not attached to a motor vehicle or caravan

Agree / Disagree

Saskia Vervoorn
Manager, Tourism Policy
Labour, Science and Enterprise, MBIE

28 / 09 / 2021

Hon Stuart Nash
Minister of Tourism

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Background

1. At the Responsible Camping Working Group (the Working Group) meeting on 7 September 2021, you and MBIE officials outlined the proposed freedom camping changes you intend to take to Cabinet later this year. While the Working Group reflected that in general, the proposals are a step in the right direction, the Working Group raised two key concerns:
 - a. that enforcement of rules may be costly for councils, especially on other government-managed land (such as that managed by Waka Kotahi – New Zealand Transport Agency and/or Land Information New Zealand), and that the period of transition from the existing rules to the new rule and regulations could require extra resourcing to support – for example, signage and education; and making bylaws.
 - b. that some freedom campers may take advantage of the exclusion of tents from the proposed new rule, which could be helped by establishing a clear definition of what structures are in and out of scope for the changes.
2. Some local government representatives also noted a disappointment that the proposed changes did not include broader changes to the regulatory environment, such as a national ‘zones’ system. You outlined the reasons why such sweeping changes would not be feasible at this point in time.
3. Below we provide some further analysis of the issues raised at the Working Group meeting, including feedback from other stakeholders, and our recommended way forward. If you agree to these, they will be reflected in the updated version of the Cabinet paper for tabling in late October.

Transitional funding

Costs to councils

4. At the Working Group meeting, some local government representatives were concerned about the cost of implementing the proposed changes, including enforcing the rules. Some were particularly averse to the expectation that they would be required to enforce on other government-managed land (such as that managed by Waka Kotahi and/or Land Information New Zealand). MBIE notes that some of this position is not consistent with previous engagement with the Working Group, whereby members had signalled an interest in being able to enforce on Crown land. In response, you noted that councils would be able to choose whether or not they wish to enforce the rules, but that the proposals give them the tools they had long sought to do so.
5. MBIE notes that councils stand to benefit from stronger general requirements for freedom camping in New Zealand. A smaller number of non-self-contained or unsuitable vehicles are likely to be present at freedom camping sites, reducing need for expenditure to address the issues campers in those vehicles can cause (e.g. waste management costs). Councils will continue to gather some revenue from enforcement. We see the ongoing management and enforcement of the new rule and regulations being within the purview of council ‘business as usual’ and do not therefore propose any ongoing operational expenses.
6. However, there is a risk that the new rule and regulatory system could be poorly understood and/or implemented if the transition phase is not resourced sufficiently. It will take at least two years for the changes to be fully implemented, and for the benefits to be felt by councils. Many local authorities do not currently have a freedom camping bylaw, and some may not have any freedom camping enforcement function at present. The Department of Internal Affairs has advised that costs of transition, enforcement, and development of bylaws could be issues for local authorities and therefore of concern to the Minister of Local Government. This issue has, we understand, been raised in the context of other new initiatives across Government that will impact on council operations.

7. At the Working Group meeting, Mayor Jim Boulton noted that camping ambassadors, which were previously supported through the Responsible Camping Fund, have been the single most effective tool for managing freedom camping. This was repeated by the other local government members of the Working Group, and aligns with MBIE's assessment that this was a relatively small amount of money to achieve high impact.
8. As communicated to you at your meeting with officials on 20 September 2021, MBIE considers that some targeted, contestable funding to support and smooth the transition period between the existing freedom camping rules and the new national rule and regulations would be beneficial. Constitutional conventions [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Conversely, there is a risk that, without funding, there may be an increase in poor freedom camping behaviours during the transition period, which could in turn damage confidence in the Government's reforms.
9. In discussion with officials, you agreed in principle that MBIE explore transitional funding arrangements further, and provide you with options on how a fund could operate, how much it would cost, and where funding would come from. Some initial thinking on the high-level shape and principles of the fund is set out below, and more detail will be provided in due course.

Initial thinking on the fund's scope

10. The key purpose of the fund would be to support effective implementation of the proposed changes – for example, signage and camper education (i.e. camping ambassadors and supporting collateral such as videos and posters).
11. Funding would be contestable, Constitutional conventions [REDACTED]
[REDACTED]
12. Operational funding for this summer would not be included, as the fund would be intended to support transition to the regulated regime. While the new rules will be communicated to the public by this summer; they will not be enacted until the second half of 2022.
13. MBIE recommends the duration of the fund be two summers, from the 2022-23 season. Our initial estimate, based on an evaluation of the Responsible Camping Fund, is that up to \$5 million per summer would be needed.
14. Constitutional conventions [REDACTED]
[REDACTED]
[REDACTED]

Application of the Freedom Camping changes to tents

15. The Working Group noted two concerns in response to the proposals relating to the exclusion of tents from the new rules:
 - a. They regarded the exclusion as a loophole, as people may erect a tent next to their vehicle in order to evade the rules. At the same time, some Working Group members acknowledged equity and access issues, particularly relating to people who camp as a form of affordable travel and recreation. As previously advised to you, MBIE does not consider there to be a significant risk presented by tent-based freedom campers (briefing 2122-0778 refers), because:
 - i. Many local authorities already have bylaws in place that prohibit tent-based freedom camping, along with clear signage. In the unlikely event that tent-based

freedom camping becomes a problem in some areas, councils can introduce new bylaws to prohibit this.

- ii. Tent-based freedom camping is not seen as a problem by most stakeholders, nor was it raised through public consultation.
 - iii. Some local authority areas used for freedom camping are not suitable for pitching a tent, for example a car park.
- b. The Working Group also wanted to see a clear definition of what constitutes a 'tent' versus a 'vehicle' to minimise the risk of freedom campers exploiting a potential loophole, and to make enforcement easier. Some types of accommodation used by campers are a hybrid of both, e.g. a pop-up tent atop a 4WD vehicle. It is important to resolve this issue now, for inclusion in your Cabinet paper and drafting instructions for the Bill.
16. Our recommended approach is that the definition of a tent must be simple to understand by freedom campers, and easy to enforce. As such, we consider that any tent attached to a motor vehicle or caravan be treated as an extension of the vehicle, and therefore within scope for the new rule and regulations. A tent, by contrast, should stand on its own. This addresses the fact that most tents attached to a vehicle are using the vehicle to support habitation, making them not substantially different from camping in the vehicle.

Next steps

17. If you agree in principle to the transitional funding, MBIE will provide you with a briefing on the design of the fund, including what funding can be spent on, and how funding will be prioritised and distributed. This briefing will also include advice on where funding will come from and the process for achieving that (e.g. approval from the Minister of Finance or Cabinet).
18. MBIE will include the definition of a tent in your draft Cabinet paper, subject to your agreement.
19. MBIE intends to hold another meeting with the Working Group once the final changes have been announced to discuss the implementation phase for these reforms. This will likely be in late November or early December. Your presence at the meeting is welcomed, but not required. MBIE can work with your office on this closer to the date.