

3 October 2022

Economic Development, Science and Innovation Committee
New Zealand Parliament

By email: edsi@parliament.govt.nz

Canterbury Mayoral Forum submission on the Self-contained Motor Vehicles Legislation Bill

1. The Canterbury Mayoral Forum (the Forum) thanks the Committee for the opportunity to make a submission on the Self-contained Motor Vehicles Legislation Bill (the Bill). In this submission the Forum has provided comment on the key issues for Canterbury in the Bill.

Background and context

2. The Forum comprises the Mayors of the ten territorial local authorities in Canterbury and the Chair of the Canterbury Regional Council (Environment Canterbury), supported by our Chief Executives. The purpose of the Forum is to promote collaboration across the region and increase the effectiveness of local government in meeting the needs of Canterbury's communities.
3. All Canterbury councils actively participate in the Forum: the Kaikōura, Hurunui, Waimakariri, Selwyn, Ashburton, Timaru, Mackenzie, Waimate and Waitaki District Councils, the Christchurch City Council and the Canterbury Regional Council (Environment Canterbury).
4. The following submission has been developed with input from across Canterbury councils. Our submission focuses on matters of general agreement between the members of the Forum.

Mayors standing together for Canterbury.

Secretariat, E: secretariat@canterburymayors.org.nz W: www.canterburymayors.org.nz
C/- Environment Canterbury, PO Box 345, Christchurch 8140 T: 03 345 9323

Ashburton District Council • Canterbury Regional Council • Christchurch City Council • Hurunui District Council
Kaikōura District Council • Mackenzie District Council • Selwyn District Council • Timaru District Council
Waimakariri District Council • Waimate District Council • Waitaki District Council

5. We note that some Canterbury councils are also making individual submissions. We support careful consideration of these submissions.

Mayoral Forum's Plan for Canterbury

6. The Forum published the *Mayoral Forum's Plan for Canterbury* in September 2020, which sets out our five key priorities in this local government term.
7. One of the key priorities is:
*shared prosperity through sustainable, value-added primary production, high-value manufacturing, **high-value tourism** and growing, attracting and retaining a skilled workforce, investment and new businesses.*
8. As part of achieving this, the Forum has advocated with central Government for several years for changes to the way in which freedom camping is managed in New Zealand. We welcome this opportunity to provide Canterbury's view on the Bill.

General comments

9. The Forum is delighted the Government has progressed legislative changes to freedom camping following a thorough public engagement process. We support the intent of the Bill to improve the management of vehicle-based freedom camping by creating a regulatory system to reduce the negative effects it has on communities and the environment.
10. The Forum has previously strongly advocated with Ministers for changes to be made while our borders were closed to international visitors, noting that the closure offered us a unique opportunity for New Zealand to shape the future of tourism in ways that create decent jobs, benefit communities and enhance our economic, environmental, social and cultural wellbeing. We appreciate there is now clarity on a timeframe for implementation and the transition period.
11. In advocating for changes to the freedom camping regime, we have noted that there is not a single view across Canterbury about this issue, but there is general agreement that, in terms of the current situation:
 - providing infrastructure to support responsible freedom camping has come at a cost that may not be fully offset by freedom camper spending
 - the problem continues to be primarily with non-self-contained (or pseudo-self-contained) vehicles
 - leaving it to each territorial authority to determine its own bylaws has not been a satisfactory solution and there is a need for a consistent approach across councils, the Department of Conservation (DoC), Land Information New Zealand (LINZ), KiwiRail and Waka Kotahi New Zealand Transport Agency (Waka Kotahi).
12. As we noted in our submission to the Ministry of Business, Innovation and Employment (MBIE) on their freedom camping discussion document in 2021¹, freedom camping affects districts across Canterbury differently. Some have significant issues with freedom campers,

¹ https://www.canterburymayors.org.nz/wp-content/uploads/CMF_Freedom_camping_MBIE-discussion_document_submission_with_attachment.pdf

while others have few problems. Due to this, there are varied approaches to managing freedom camping, with some districts using freedom camping bylaws to restrict or prohibit camping in certain areas and limit camping to self-contained vehicles, and some using existing bylaws for camping, littering, parks and reserves to restrict or prohibit camping in certain areas. Districts who have few problems with freedom camping address issues as and when they arise.

13. While the flexibility in the current legislation allows districts to respond in ways best suited to their local areas, the inconsistency has made it hard for visitors to understand what is expected across the region and consequently has made enforcement (and cost recovery of infringements) difficult. The Forum therefore strongly supports any move to create greater consistency within the freedom camping regime.

Comment on key proposals in the Bill

14. Comments are provided below on the key issues from the Forum's perspective.

Where freedom camping is permitted

15. We welcome the requirement for vehicle-based camping on council land to be done only in certified self-contained vehicles unless council designates otherwise through a bylaw. We appreciate the intent of this section to establish a clear expectation that freedom campers staying on land managed on behalf of ratepayers will stay in certified self-contained vehicles enabling them to be self-supporting for several days. However, we are concerned with two related aspects of new section 10 (s10).
16. Firstly, it still allows freedom camping, in the wider sense of the word, anywhere in local authority areas unless prohibited or restricted through a bylaw or other legislation.
17. As we noted in our submission to MBIE, our strong preference is for freedom camping (regardless of in a vehicle or tent) to be allowed only where a council designates it as acceptable. If the intent of the legislation were reversed to assume that freedom camping (in a self-contained vehicle or otherwise) is not permitted unless expressly provided for, local authorities' roles in monitoring and enforcing this regime would be easier, less costly and more efficient. Importantly, it would give councils greater ability to determine the areas within their localities that are appropriate for freedom camping, and work in partnership with each other to take a more coordinated and strategic approach to the issue.
18. Secondly, we note that new s10 in the Bill applies only to vehicle-based camping, not tent-based freedom camping, nor freedom camping on DoC land. While we agree that vehicle-based camping in non-self-contained, or pseudo-self-contained vehicles causes the majority of problems for us as local authorities, we are concerned that the distinction between vehicle and tent-based camping, and between DoC and other land, creates a gap and potential loophole, and will add to already existing confusion for tourists.
19. We understand the advice given to the Government was that tent-based freedom camping and freedom camping on DoC land were not nearly as problematic activities as vehicle-based freedom camping, and that the existing rules are appropriate for managing any

problems that may arise with this form of camping². We also appreciate there are equity issues, and that there were concerns that applying the new rules to DoC land would mean that tramping, hunting and fishing activities, favoured pastimes of many New Zealanders, would be unnecessarily impacted. This is an important and valid point, so while we accept DoC's preference for conservation land to remain outside the new rules, we wish to note our concern about the confusion this may create for tourists, who will need to understand and navigate these different regimes across the country. The current Act defines local authority area (council) land and conservation (DoC) land as separate categories of land. The Bill can and should treat these two categories of land differently, as they are very different, as are the activities likely to occur on them. Camping in tents should be allowed on conservation land to continue entitlements around hunting, fishing, tramping, and so on, but not on council land. This would then limit tent-based camping to places with facilities and where communities and their councils consider it appropriate, via a bylaw.

20. Further, we are particularly concerned about the potential loophole for freedom campers to simply buy or rent a cheap vehicle and tent and thus continue freedom camping as they have in the past. Damage to the environment from inappropriate camping practices is not confined to vehicle-based camping. With sleeping in a tent not being captured by the new rules, we may find that "budget" freedom campers, who have largely been the problem, will just switch from camping in vans to tenting, meaning that the problems these changes seek to solve will not be adequately addressed.
21. Some councils have also had problems with people sleeping on boats which have been parked on trailers on dry land by the side of a road or on vacant council land. This sometimes occurs during boating events which have large numbers of people attending, as campgrounds are unable accommodate everyone. This kind of freedom camping would not be captured by the new regime as the Bill does not appear to class boats as vehicles.
22. We consider the policy distinction between vehicle-based and other freedom camping will place greater responsibility on local authorities to create new, or amend current, bylaws to ensure these types of camping are captured. Put simply, it makes little sense to require campers in vehicles to provide for their own toileting needs, but then allow campers to stay in tents in the same places with no requisite requirement to provide or have access to toilets. The Forum's strong preference would be for camping in anything other than self-contained vehicles to be prohibited on local authority area land, with both non-self-contained vehicle-based camping and tent-based camping allowed only where a council specifically enables it through a bylaw.
23. We urge the committee to give careful consideration to amending section 10(1) accordingly.

Regulatory system for self-containment of vehicles

24. The Forum strongly supports establishing a comprehensive and strict regulatory system for self-contained vehicles. This, coupled with a strengthened self-containment standard, is key to a vastly improved system for managing freedom camping. It also sends a strong and clear message about the type of behaviour New Zealanders expect from freedom campers.

² <https://www.mbie.govt.nz/dmsdocument/18156-supporting-sustainable-freedom-camping-in-aotearoa-new-zealand-proposals-for-regulatory-change-proactiverelase-pdf>

25. We therefore support the intention of this part of the Bill to provide greater consistency in the certification process for self-contained vehicles, increased trust in the certification system, and, importantly from a local government perspective, greater certainty for enforcement officers who must verify that vehicle meets self-contained requirements.
26. A centralised register of certified vehicles would clearly make it easier for local authorities to verify that a vehicle is compliant, as well as whether the owner(s) had previously been issued warnings or fines, thereby further supporting enforcement efforts. Further, we support nationwide consistency in application of the certification standards, as the current disjointed and uncoordinated approach to certification results in inconsistencies across the country and varying interpretations of what is required. The Forum supports any measure that would see the consistent application of these standards nationwide.
27. We do not have a strong view on whether the Plumbers, Gasfitters and Drainlayers Board is the appropriate regulator, as proposed in the Bill. While there would be some advantages to this, we urge the Government to ensure that the Board has the capability and capacity to fulfil these new functions successfully and consistently.
28. While we support the proposal to only certify vehicles with a fixed toilet as self-contained, we acknowledge the financial impacts this will have on many campers. We are pleased to see the transitional arrangements in the Bill and agree that the transition periods outlined are appropriate.
29. On a related note, we understand that the freedom camping regulations currently being developed consider exemptions to the self-containment rules, for example for smaller vehicles or some vintage vehicles. We would like to take this opportunity to advocate that the Bill should not allow for any exemptions to the regime. If an owner of a vehicle does not wish to be self-contained, that is their choice, and it simply means they do not have the right to use this vehicle to freedom camp on local authority land unless a bylaw permits this.

A stronger infringement regime

30. The Forum is in support of the proposals for a stronger infringement regime.
31. A stronger enforcement regime will mean that local authorities can give higher fines for a range of offences, enabling improved cost recovery for the often significant efforts required by council staff to monitor and enforce freedom camping regulations. The current \$200 blanket fine is clearly and demonstrably inadequate in many circumstances, and a tiered structure would provide local authorities with greater flexibility to deal with infringements.
32. However, we do have concerns that the proposed tiered system for infringements being developed as part of the regulations does not align with the infringement offences contained within the legislation. To avoid future confusion, we urge the committee to ensure the Bill sets out all of the necessary infringement offences – which would then allow the infringement fees themselves to be set in the regulations.
33. We also support the requirement for fines to be passed on from vehicle rental companies to the individual(s) who hired the vehicle. The discretionary way in which rental companies can currently choose whether or not to do this is a clear gap in the current system. Rental companies are best placed to recover infringement fees from vehicle renters and should be made accountable for this action.

34. Relatedly, we strongly support the proposal in the Bill for enforcement authorities to be able to email infringement notices. This will improve the enforcement process and make it more efficient.

Extension of new regime to other Crown land

35. The Forum considers the extension of the new regime to other Crown land to be a sensible approach and offers a level of consistency that has been lacking until now. However, there is a significant gap in the proposal which we consider needs rectifying – the omission of controls in the Bill over Waka Kotahi land. As it stands, this land is only subject to the Bill if a council makes a bylaw declaring it local authority area land which could mean this approach lacks the consistency required.
36. In short it means the onus to protect Waka Kotahi land is on councils rather than Waka Kotahi. To do so, a council would be required to incorporate specified Waka Kotahi land in its bylaw. For councils with an existing bylaw, the only way to do this is by making an amendment. The amendment would then have to meet the tests in the current Act and go through a public consultation process, using the special consultative procedure. This is an expensive and time-consuming process and would place an unnecessary burden on councils. Additionally, it would also open council up to a bylaw challenge by judicial review.
37. We hold serious concerns that the Bill frames the extension of the regime to Waka Kotahi land as simply needing a council to get written permission from Waka Kotahi, while ignoring the requirements that would need to be met under the Act, including assessments and public consultation.
38. We therefore urge the Committee to ensure the Bill provides for better protections for Waka Kotahi land, rather than relying on councils for this. We suggest that Waka Kotahi could be empowered to make notices over its land (the same as DoC) and enforcement could be contracted to councils, if all parties agree (similar to what is proposed for LINZ land in the Bill).
39. Further, we note that LINZ land is treated differently and is prohibited for camping, unless permitted by LINZ. We are unclear why these Crown land holders are treated differently under the Bill, and why the onus is on councils to support Waka Kotahi. There needs to be a consistent approach across agencies.
40. In addition, we do question why KiwiRail land is not included alongside Waka Kotahi and LINZ land. The Kaikōura district in particular has had problems in the past with freedom campers on KiwiRail land adjacent to the coastline. To ensure consistency, we recommend the Committee consider extending the Bill to include KiwiRail land in addition to that of Waka Kotahi and LINZ.

Costs to local authorities

41. While we support the intent of the new regime proposed by the Bill, we wish to raise the issue of the increased costs which will fall to local authorities as a result.
42. Although it will be a decision of each local authority as to whether Waka Kotahi and/or LINZ land is included in their freedom camping enforcement efforts, from a consistency perspective, it makes sense for this to occur. However, for many councils this will likely

mean additional local government resources are required for not only enforcement but also drafting and redrafting of bylaws and the policy work, decision-making and consultation/special consultative procedure this will entail. As noted above, these procedures are expensive and time-consuming. Our preference would be for councils to simply administratively update or remove definitions of self-contained vehicles from their bylaws, given the coverage of the Bill and the proposed regulations. Councils should not need to go through a full bylaw amendment process to make this administrative change.

43. More generally, councils will also require new signage in various areas, as well as education and awareness campaigns to help people understand the new regime in cities, towns and districts.
44. We appreciate that the Government has established a transitional fund of \$10 million over two years to reduce the impact on local authorities. Assuming funding is granted to requests, this could assist with education and awareness campaigns, drafting and redrafting of bylaws, and other related projects. However, it will not cover increased enforcement activities or assist with infrastructure and ongoing operational costs that do not align with the purpose of fund (including servicing of freedom camping facilities).
45. While the details of the fund are not part of this Bill, the Forum wishes to raise this issue for the Committee's context and information. Local government is already facing rising costs from a range of government-led reform programmes and some of the aspects of this Bill may increase these costs further. We also wish to raise the unusual timing of the transitional funding, given that the new regime is still being developed yet the first round of the fund was only contestable until early October 2022. Councils cannot prepare collateral until the final legislative and policy settings are confirmed.

Protection for the homeless

46. The Forum appreciates the intention in the Bill to protect the homeless. In practice, we are not sure what this will look like, and it appears that local authorities will simply continue as they do now and use discretion to avoid infringing people experiencing homelessness. If homelessness becomes more problematic in this regard, local authorities may require greater support from the Government to manage this issue.

Conclusion

47. Thank you once again for the opportunity to make a submission on this legislation.
48. In closing, we would like to reiterate our support for the intent of the Bill, and the improvements to the freedom camping regime that will result from its implementation. Despite this, we remain strongly of the view that the key principle in the legislation needs to be amended so that the default is that freedom camping is not permitted in any area unless expressly provided for. This fundamental shift would result in an easier, more efficient and less costly system for local authorities. Allowing councils to identify the areas appropriate for freedom camping within our localities will improve the way we work in partnership with each other and facilitate a more coordinated and strategic approach to the issue.
49. Lastly, the Committee may note that our submission is dated much earlier than the close-off date requires. This is because the submission process unfortunately spans the election period, meaning that our Forum had less time to prepare this submission if we wished to

submit. We have done so in a truncated timeframe to ensure the voice of Canterbury's local government leaders are heard on this important issue.

50. Our Secretariat is available to provide any further information or answer any questions the Committee may have about our submission. Contact details are: Maree McNeilly, Canterbury Mayoral Forum Secretariat, secretariat@canterburymayors.org.nz , 027 381 8924.

Ngā mihi

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line that tapers to the right.

Sam Broughton
Mayor, Selwyn District Council
Chair, Canterbury Mayoral Forum