

13 October 2022

Via email: responsiblecamping@mbie.govt.nz

SUBMISSION TO THE MINISTRY OF BUSINESS INNOVATION AND EMPLOYMENT ON THE ON THE SELF-CONTAINED MOTOR VEHICLES LEGISLATION BILL

Kia ora,

Thank you for the opportunity to provide feedback on the Self-Contained Motor Vehicles Legislation Bill.

The Queenstown Lakes District is one of the most popular camping destinations in New Zealand. Due to the significant impact freedom camping can have on the environment and local communities it is crucial that it is managed effectively.

There is some alignment between the proposed Self-Contained Motor Vehicles Legislation Bill and the QLDC Responsible Camping Strategy 2022-2027. This Strategy aims to ensure that all campers who visit the Queenstown Lakes District respect the environment, give back to communities, and enjoy the beautiful landscape sustainably. However, QLDC recommends further investment in infrastructure, enforcement, national freedom camping education and monitoring solutions that sit alongside the proposed changes to freedom camping.

QLDC broadly supports the proposed legislation, in particular the move to having certified self-contained vehicles and a strengthened fines regime. However, the changes do not address the challenges local authorities face when interpreting sections 11 and 12 of the Act when setting bylaws.

QLDC recommends freedom camping in tents is addressed in the new legislation and suggests some legislative clarification to facilitate a smooth transition to the new system.

The following feedback and input represent the views of Council officers and has not been ratified by full Council.

For ease of reference, we have provided comments on each of the proposed regulations relevant to local government as Annex A.

Kind regards,



Ken Bailey
General Manager, Community Services
Queenstown Lakes District Council

ANNEX A

1.0 Tents and temporary structures

- 1.1 QLDC supports the inclusion of tents and other temporary structures in the definition of freedom camp (section 5) and the definition of a freedom camping activity that a local authority area can permit, restrict or prohibit (section 10).

2.0 Consistent approach to all Crown land

- 2.1 The Bill extends the scope to apply to Waka Kotahi and LINZ land in some circumstances, but the new national rule does not apply to DOC land. The new section 10A gives local authorities the power to 'declare' any area of "NZTA land" to be a local authority area under the Act. The effect of such a declaration is that the relevant NZTA land could be included in a bylaw made by the local authority to restrict or prohibit freedom camping. For LINZ land notice will designate where freedom camping is permitted, and LINZ will be able to appoint officers to enforce the applicable freedom camping rules.
- 2.2 Allowing different approaches to the management of freedom camping on Crown land creates confusion for campers and inhibits implementation of a consistent enforcement regime within local authority areas.
- 2.3 QLDC recommends the Bill allow for a consistent consent, notice or approval process for each agency to define areas of land in a bylaw that are deemed to be local authority areas for the purpose of the Act. This will allow for a consistent approach to managing freedom camping, including enforcement, on LINZ, NZTA, DOC and local authority land. If introduced, this would increase enforcement area management for local authorities and would require sufficient additional funding to ensure this was able to be sustained.
- 2.4 Councils may be challenged on how they received authority from NZTA to enforce its land. QLDC recommend there be a nationally consistent format (or form) for NZTA to follow when it provides "written consent" to councils. Councils will be able to attach this consent to the bylaw to provide transparency to the process.
- 2.5 QLDC recommends that the Bill makes clear that all freedom camping fines will be payable to local authorities if they are responsible for enforcement of an area, regardless of public land ownership. Currently the Bill only refers to NZTA land and it is not clear in the Bill who the fines should be paid to; this should be made explicit in clauses 27 to 32 of the Bill.

3.0 Fines and infringement offences

- 3.1 The proposed scale of fines and national register of self-certified vehicles are important improvements for regulators. QLDC supports the introduction of a scale of fines for different offences, introduction of a national register of self-contained vehicles (with no exclusions for some types of vehicles) and enabling infringement notices to be emailed. A scale of fines will provide the public with an understanding that there is a scale of offending, and some are worse than others.
- 3.2 QLDC recommends infringements are included in the Self-Contained Motor Vehicles Legislation Bill and relevant regulations Freedom Camping Regulations to allow for additional and increased penalties for repeat breaches of the Freedom Camping Act 2011 and local freedom camping bylaws.
- 3.3 QLDC recommends enforcement mechanisms are developed to reduce the number of unpaid freedom camping infringements (e.g., fines to be paid at the international border before leaving New Zealand).

4.0 Infringements and homelessness

- 4.1 QLDC supports the policy intent to continue to support enforcement authorities in applying their discretion and not to issue infringement notices to people experiencing homelessness. However, it recommends that further guidance and support is provided to local authorities to assist enforcement authorities in making this challenging assessment. Enforcement officers are not currently trained to make this determination.
- 4.2 The Queenstown Lakes District has limited services to support people who are homeless and while it is working with Government partners to improve the availability of affordable accommodation, this issue is unlikely to be resolved in the short term.

5.0 Bylaw transition following enactment of new legislation

- 5.1 Councils will undertake a bylaw transition from their existing bylaws to the new legislation. The transition will create drafting inconsistencies when held up against the new legislation. QLDC recommends that a clause be inserted into section 11B of the Bill which allows amendments to be made to existing bylaws so they can be grandparented within the two-year transition period, removing the requirement for a special consultative procedure.

6.0 Section 11 and Section 12 of the Freedom Camping Act 2011 – clarifications to interpretations

- 6.1 Although these provisions are not proposed to be amended by the Self-Contained Motor Vehicles Legislation Bill, QLDC would like to raise concerns with the present drafting of the Freedom Camping Act in relation to Section 11 (Freedom camping bylaws) and Section 12 (Bylaws must not absolutely prohibit freedom camping).
- 6.2 Sections 11 and 12 of the Freedom Camping Act have been the subject of judicial review proceedings against local authorities. Some of those decisions found procedural issues of the local authority when making the bylaw. However, based on the experience of QLDC the primary motivation for bringing these judicial review proceedings is a substantive disagreement in the locations that the local authority had prohibited or restricted freedom camping. These proceedings are costly to the ratepayers of local authorities.
- 6.3 To improve the legislation, QLDC recommends the following clarifications be made to sections 11 and 12 of the Freedom Camping Act 2011.
 - Section 11:
 - Section 11(2) is ambiguous, and the interpretation of this provision has given rise to judicial review proceedings.
 - References in section 11(2) to “the area,” “access to the area” and “health and safety of people who may visit the area” should be clearly defined. This would assist in clarifying the interpretation of the bylaw making provisions.
 - Recommend that “the area” in section 11(2) is defined to include:
 - Natural/environmental values, including ecosystems, biodiversity, water quality, plants and wildlife including the risk of damage by fire.
 - Cultural values.
 - Amenity values including residential and commercial areas (e.g., noise, views, privacy).
 - Recreational values including the capacity of a site, visitor experience and setting.

- Recommend that the “the area” in section 11(2) is defined separately to “local authority area”. This will ensure that effects on the environment that are not on the “local authority area” are able to be considered (i.e., the effect on a river adjacent to a reserve, the river is not owned or managed by the local authority, nor would it be captured by the definition of LINZ Land in the Bill).
- Section 12:
 - The policy intent of section 12 is to prevent a local authority making a bylaw that absolutely prohibits freedom camping in all local authority areas across the district. The words “have the effect of” in section 12 lead to uncertainty in what it means to prohibit freedom camping. Deleting these words would ensure that it was clear that section 12 prevents an *absolute* prohibition.

7.0 Responsible Camping Funding

- 7.1 Since 2019 QLDC has been supported by the Ministry for Business Innovation and Employment (MBIE) and other Government partners to invest in a range of initiatives to encourage responsible camping. These have included:
- Development and review of the QLDC Freedom Camping Bylaw 2021
 - An Ambassador Programme to educate and promote visitor social responsibility
 - Increased enforcement across the District
 - Free summer camping “hubs” to provide short term facilities/services to campers (including dump stations, toilets, showers, washing machines, and free wifi).
- 7.2 These initiatives have resulted in a reduction in negative behaviour and bylaw breaches from freedom campers.
- 7.3 QLDC anticipates continued growth in tourism and freedom camping with the reopening of international borders in 2022. With an increase in visitor numbers to the Queenstown Lakes District, QLDC is likely to experience pre-COVID levels of freedom camping issues such as inappropriate waste disposal and increased community complaints. To manage these issues QLDC has applied to the MBIE Freedom Camping Transition Fund 2022-23 to support initiatives including increased enforcement and an educational ambassador programme, both used successfully in the past.
- 7.4 QLDC recommends the Government continues to fund local authorities for responsible camping initiatives beyond 2023-24, including increased enforcement, providing a sustainable model to manage freedom camping. To ensure a consistent quality of programmes and information are provided nationally (and across council boundaries), this investment should include the development of national communication and education campaigns and resources, signage, technology (e.g., CamperMate), monitoring and reporting. Consistent signage other and responsible camping resources will decrease confusion for campers and increase compliance.
- 7.5 QLDC recommends that Government funds local authorities to invest in relevant infrastructure to support the management of freedom camping, including toilets and waste dump stations. This funding should be aligned with monitoring of freedom camping numbers within Aotearoa New Zealand and should be increased as the numbers of freedom campers and overall visitor numbers increase. Without appropriate levels of infrastructure, the Tiaki Promise and other education programmes may have limited impact on issues caused by freedom camping and high visitor numbers to significant locations.

7.6 QLDC recommends the Government funds responsible camping education and enforcement on Land Information New Zealand (LINZ), Department of Conservation (DOC), and Waka Kotahi NZ Transport Agency (NZTA). At present local authorities are unaware of any specific responsible camping funding to support these other agencies, which means the burden for local enforcement and education sits with local ratepayers and appears to be wholly the responsibility of councils.