



07 November 2017

Hurunui District Council  
Attention: Freedom Camping Bylaw Review  
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## **SUBMISSION ON THE HURUNUI DISTRICT COUNCIL PROPOSED CHANGES TO THE FREEDOM CAMPING BYLAW & RESERVE MANGEMENT PLAN 2017**

### **Executive summary**

1. The New Zealand Motor Caravan Association (**NZMCA**) appreciates the opportunity to submit on the proposed changes to the Hurunui District Council (**Council**) freedom camping bylaw (**draft bylaw**). We also thank the Council for the opportunity to comment on the proposed draft bylaw prior to releasing it for public consultation.
2. This submission addresses our primary concerns with the proposal (as previously discussed); including the significant impact the bylaw will have on the ability for New Zealand families to explore Hurunui in their certified self-contained (**CSC**) vehicles.
3. Prior to adopting a new bylaw, we strongly recommend the Council undertakes "site specific" assessments and reduce the broad prohibitions across settlement areas and beach and coastal environments throughout Hurunui. In our opinion, the current level of analysis is flimsy and does not demonstrate compliance with section 11(2) of the Freedom Camping Act 2011 (**FCA**).
4. We request further information (as noted below) prior to the hearing to help determine whether the perceived problems exist in certain areas and, if so, whether there is an alternative solution which is more appropriate and proportionate to those issues.
5. The Council has expressed an interest in the NZMCA's Motorhome Friendly Towns (**MHFT**) Scheme. At this stage, the NZMCA does not support the draft bylaw and therefore no towns within Hurunui are eligible to apply for MHFT status.

## **Introduction**

6. Established in 1956, the NZMCA currently represents over 75,600 individual New Zealanders who share a passion for exploring our country at leisure in their purpose-built motorhomes and caravans. Over 2,000 individual members reside in the North Canterbury Region (including the Hurunui District).
7. NZMCA members are taxpayers, ratepayers, and domestic travellers who enjoy freedom camping in Hurunui and other districts throughout the country. Therefore all members, particularly those residing in Hurunui, will be directly affected by the bylaw.
8. The NZMCA is an advocate for responsible freedom camping and we applaud the recognition of CSC vehicles within the draft bylaw. Following requests and a groundswell of support from local government, central government, and industry operators nationwide, the NZMCA recently commissioned Standards NZ to amend the Self-containment Standard NZS 5465:2001 (at a cost of \$50,000 to the Association).
9. The amendments to NZS 5465:2001 were adopted by Standards NZ in May 2017, following unanimous support from the Standards Development Committee (which included 14 representatives across central and local government and the tourism industry). The committee successfully raised the benchmark insofar as the proper access to on-board toilets is concerned.

## **What is freedom camping?**

### *A traditional activity*

10. The FCA is a permissive statute and provides local authorities with practical tools designed to help manage freedom camping problems in their areas. Tools include an instant fine regime in response to those caught dumping waste or damaging an area while freedom camping, and the ability for local authorities to make new bylaws that restrict or prohibit areas for freedom camping.
11. Unfortunately, some communities and decision-makers perceive freedom campers to be mainly young and unruly international visitors spoiling our environment. This is not the case. The previous parliament recognised through the enactment of the FCA that freedom camping is a traditional activity enjoyed by ten-of-thousands of New Zealand families throughout the country. When discussing the presumption of the FCA the then Minister of Conservation, Hon Kate Wilkinson, stated

*“Freedom camping is a valued tradition in New Zealand, as we have heard, and this Government wants to ensure that it stays that way....The presumption is that people can camp unless a location is specifically restricted....This bill is purposely pro-camping,*

*as we recognise that the majority of freedom campers are responsible and take great care to clean up after themselves.”*

12. Furthermore, when discussing the benefit of the FCA to New Zealand families the then MP for Christchurch Central, Nicky Wagner, stated

*“The [FCA], for the first time, enshrines the right of New Zealanders to go freedom camping as a default setting. New Zealanders can camp as of right on public land and Department of Conservation land, unless there is a good reason not to allow it...In creating these by-laws, [local] authorities need to prove that there is a real problem. This bill ensures that they can no longer impose blanket bans and it will give consistency across the country... [Local] authorities can impose those by-laws within only very limited geographical areas.”*

13. The National MP for Taupo, Hon Louise Upston, also gave Parliament a personal account when discussing the purpose of the FCA:

*“...the main point I want to make is that [the FCA] is about protecting the right of New Zealand families to camp, I want to give a personal example. I was raised camping by the lakes, by the rivers, and by the beaches. I remember times with my son when staying in a camping ground was not affordable at the time. So we would pack up the borrowed tent, jump in the car, and drive to a place that was yet undiscovered. This bill protects the right of New Zealanders to have those kinds of adventures in this country because it will stop the blanket [ban] by-laws.”*

14. Freedom camping is not merely an activity undertaken by young overseas tourists travelling on a shoestring budget, even though a small minority of them are usually at the forefront of the country’s freedom camping issues. Ordinary, responsible New Zealanders value the opportunity to explore the country and freedom camp in a variety of settings, including residential, town centre, rural, coastal and remote areas. Because of this, the NZMCA is well-resourced to support the ability for its members (and indeed all New Zealanders) to freedom camp in a CSC vehicle, while supporting communities and encouraging decision-makers to make sensible evidence-based decisions.

#### *Public infrastructure*

15. From a strategic perspective, managing freedom camping issues through a bylaw also requires the provision of adequate infrastructure. Local authorities have a statutory obligation to provide the level of infrastructure necessary to support their residents and visitors alike. In terms of freedom camping, basic infrastructure includes wastewater dump stations, rubbish facilities, and public toilets. If necessary, there are funding options available to support these projects, including MBIE’s tourism infrastructure fund and the NZMCA’s public dump station / refuse bin fund.

## Freedom camping benefits

16. Unfortunately, those opposed to freedom camping often claim motorhomers and freedom campers are a burden on society and contribute nothing to local economies. This is unsubstantiated and emotional rhetoric with no supporting evidence. We implore all decision-makers to separate the rhetoric from fact and acknowledge responsible freedom camping can be of significant value to your constituents and local economy.

### *Economic benefits*

17. Motor Caravanning is estimated to be worth over **\$650 million** to New Zealand' economy and ongoing research reinforces how significant the industry is to local economies. For example:
- MBIE visitor spend data for 2016 confirms freedom campers generally spend more (and stay longer) on average than other tourists. Their figures suggest the average freedom camper spends about \$100 per day;
  - According to research carried out by the Auckland Council in 2017, visitors in self-contained vehicles spend on average \$288 per day while freedom camping in Auckland, compared to an average of \$66 per day for non-self-contained vehicles;
  - In February/March 2014 the Central Otago District Council surveyed 1,000 campers at popular freedom camping spots across their district. According to their results the average camper spent \$91 a day while visiting the district, 78% were domestic visitors, and 64% over 60 years of age. The Council's Parks and Recreation Manager, Mathew Begg, noted that this spend was quite significant to the local community;
  - An independent market research report published by COVEC in October 2012 found campervan hirer's in the year 2011 spent on average \$195 per day during their travels. Tourism Industry Aotearoa publically supported these findings stating campers were contributing to communities throughout New Zealand, supporting local business and jobs, and spending was not limited to tourism operators rather spread across a wide range of businesses in the community;
  - A survey carried out in March/April 2012 at Ferry Road, Taupo (a restricted freedom camping area) showed the average motorhome visitor spent \$401 per visit. Also of note, over 100 local businesses signed a petition to the Taupo District Council supporting the preservation of freedom camping at this site; and
  - Results from a 2012 survey by CB Marketing Consultants in Nelson showed the average NZMCA couple spent \$117.00 per day in local businesses while visiting the small town of Murchison.

18. Obviously the above facts vary depending on the location of the district and what attractions etc. are on offer. However, the data ultimately proves freedom campers spend money, are of significant value to local economies when they're made to feel welcomed, and firmly refutes any perceived notion that motorhomers are freeloaders.

#### *Social benefits*

19. Places that permit CSC freedom camping generally suffer less from vandalism and other undesirable social behaviour as self-contained campers provide free security for the area. Many community clubs and associations nationwide have formed reciprocal relationships with the NZMCA allowing our members to park overnight for the security it provides to their facilities. This positive benefit from allowing responsible freedom camping is often overlooked when assessing the value of supporting freedom camping.

#### *Environmental benefits*

20. In addition to the economic and social benefits associated with CSC freedom camping, NZMCA members value the places they stay and take special care to look after and improve them. Members regularly volunteer their time with local organisations and authorities to tidy up sites, pick up litter, and plant vegetation. Again, this positive benefit is frequently overlooked when discussing the value of freedom camping to a community.

#### *Additional matters to consider*

21. Academic research<sup>1</sup> shows motorhomers are generally 'hybrid campers' frequently alternating between commercial campgrounds, DOC campsites, and freedom camping areas. Therefore, commercial operators stand to benefit the most as more motorhomers are likely to visit areas that cater for their wider needs.
22. Academic and local government research<sup>2</sup> suggests that when selecting a place to camp overnight, most visitors are motivated by the physical environment (e.g. views, facilities, cleanliness etc.), as well as the sites proximity to local attractions, dining, entertainment, and their next destination. Contrary to popular belief, 'free' camping is well down the list of motivating factors.
23. The domestic market is undergoing a significant growth phase with the NZMCA forecasting over 80,000 individual members by the end of 2018 and potentially 100,000 members by 2020. NZMCA members travel throughout the year, especially during the

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<sup>1</sup> For example see Robin Kearns, Damian Collins & Laura Bates (2016): "It's freedom!": examining the motivations and experiences of coastal freedom campers in New Zealand, *Leisure Studies*, DOI: 10.1080/02614367.2016.1141976

<sup>2</sup> Ibid, Auckland Council: Freedom Camping Trial Research (2017), and Mary Hutching & Cindy Lim (2016): A study into freedom camping in Taranaki, New Zealand, Pacific International Hotel Management School.

off-peak season, and therefore provide much-needed economic support to small business communities outside the peak holiday periods.

#### **Comments on the 'Summary of Information' document**

24. This is an important document as it sets the tone for the proposal while educating the public on the perceived problems that justify the need for a revised bylaw. Unfortunately, the preamble defining freedom camping is very misleading by claiming "freedom campers do not have access to essential facilities such as toilets and waste disposal facilities." This is disappointing, particularly when there is a collaborative effort between the industry and local government to educate the public on the difference between CSC and non-CSC vehicles. It is also unclear why this definition was deemed appropriate when the bylaw explicitly recognises CSC vehicles. Presumably the Council is aware CSC vehicles provide on-board toilets and waste disposal facilities.
25. The document also explains the key criteria for making bylaws under the FCA. However, unlike the Statement of Proposal, it fails to mention any decisions must also be the most appropriate and proportionate response to the perceived problem(s). Undertaking a proportionality test is a fundamental step in the bylaw-making process and reference to this section of the FCA helps submitters understand how and why decisions are balanced to avoid introducing unnecessary limitations.
26. Submissions are heavily influenced by the commentary and quality of evidence supporting these proposals. In turn, decision-makers are influenced by the nature of the submissions received. People need to be properly informed in order to be given the opportunity to make well informed submissions and recommendations. This process is compromised when the Council's main documents provide inaccurate information and/or fail to include important information.
27. Given the significance of this proposal, the Council should have done a better job advertising what CSC vs. non-CSC freedom camping is and how the FCA requires the Council to make appropriate and proportionate decisions. We request the Council keeps this issue in mind when deliberating on the bylaw.

#### **Comments on the draft bylaw**

28. The NZMCA is primarily concerned with the broad prohibition that applies across the mapped settlement areas and beach and coastal environments. The prohibitions are reasonably extensive and deny visitors in CSC vehicles access to desirable areas such as (but not limited to) Hanmer Springs and seaside settlements such as Gore Bay. From the information provided to date, it appears the Council has not demonstrably considered the problems (if any) that are relevant to each individual settlement area.

29. We believe the proposed outcome is unnecessary and the supporting rationale does not comply with section 11(2) of the FCA. Further, the extent of each prohibition represents an unreasonable limitation on the ability for responsible freedom campers in CSC vehicles to explore Hurunui and stay in the most desirable public locations.

#### *Amenity Values*

30. The Council considers prohibiting all freedom camping (including CSC vehicles) across settlement areas is necessary to protect “certain amenity values”. This justification is unduly vague given the wide (and desirable) areas covered by the prohibition. Given the “certain amenity values” are not clearly defined, it is impossible for the NZMCA to assess whether prohibition is the most appropriate and proportionate way of addressing the perceived problem. It is also unclear whether the Council undertook the appropriate proportionality test in this regard. If it has, we would appreciate a copy of this assessment prior to the hearing.
31. If the amenity values are visual amenities, we note reference to visual amenities is notably absent from the FCA and a bylaw made for the purpose of addressing any or all visual amenity effects may be open to challenge, particularly if those effects are largely subjective (i.e. in response to residents’ complaints that they do not like the look of motorhomes parking in their streets) or can be alleviated through appropriate and proportionate restrictions.
32. Until the “certain amenity values” are defined more clearly, it is difficult for us to understand which settlement areas this justification applies to. It would be helpful for the Council to provide further clarification in this regard. For example, if the issue is visual amenity effects, is this a perceived problem in terms of areas with ocean views? Does it apply to other mapped settlement areas? A better understanding of the Council’s reasoning in relation to “amenity values” is critical in terms of the NZMCA being able to make a fully informed submission, and Council complying with its consultation obligations.
33. In the meantime, it is difficult to accept prohibition is necessary when CSC vehicles are entitled to lawfully park overnight (unoccupied) within these areas. From a visual effects perspective, is there any fundamental difference between an occupied and unoccupied vehicle parked on the road or public car park? If not, the restriction is unreasonable and a disproportionate response to the perceived problem.

#### *Risks Associated With Parking on Road-Sides*

34. There is no evidence to suggest every roadside throughout the mapped settlement areas experiences high volumes of traffic, pedestrians and other users that would warrant outright prohibition. We believe the majority of roadsides experience relatively low volumes, particularly at night when people generally freedom camp. In which case, the

prohibition is unnecessary. Where the volume of traffic is higher than usual during the day, the most appropriate and proportionate response could be a restriction on hours of camping rather than an outright prohibition.

35. Furthermore, under the FCA freedom camping excludes “temporary and short term parking of a motor vehicle” and “recreational activities commonly known as day-trip excursions.” This means the bylaw will not prevent the owner of a motor caravan from freedom camping in a permitted area and then parking in a mapped settlement area while going on a “day trip excursion”. Nor can the bylaw prevent a vehicle owner from temporarily parking in a mapped settlement area. Therefore, the bylaw will not mitigate the risk from high volumes of traffic and pedestrians given it cannot prevent a freedom camper from parking in the area.
36. We do not consider the proposed prohibition will achieve its health and safety objective given the highest volume of traffic and pedestrians occurs during the day when motor caravans are also permitted to park for day-trip excursions or temporary parking. The risk to health and safety from a high volume of traffic and pedestrians is much lower overnight at the time when freedom camping would occur.

#### *No Facilities*

37. The Council has noted in support of its proposed prohibition across settlement areas and beach and coastal environments that facilities are not always available. Prohibition is not the most appropriate and proportionate response to this problem for CSC vehicles which do not require external facilities.

#### *Protecting Road-Side Parking for Residential Properties and Businesses*

38. We do not agree that it is appropriate for any local authority to deny New Zealanders the right to undertake a public activity on public land in favour of protecting residential and commercial street-side parking. Nor do we believe this approach is necessary across all settlement area roadsides. Is the Council aware this approach also denies Hurunui residents and ratepayers the ability to freedom camp within their hometowns, or host their visiting family and friends who may wish to freedom camp overnight outside of their private properties (on the street-side)?
39. Furthermore, most businesses usually only require parking during daylight hours, while freedom camping generally occurs overnight. The Council’s concern (if legitimate) would be more appropriately and proportionately addressed by restricting the hours of camping so as to protect access during business hours.
40. The bylaw cannot prevent motor caravans from parking in settlement areas temporarily or while their owners go on day-trip excursions in the area. Therefore, the intended



purpose of the prohibition will not be achieved. Conversely, when many businesses are closed in the evenings it is likely there will be plenty of space for both residents and freedom campers to share the mapped settlement areas.

#### *Beach/coastal areas*

41. It appears the Council intends to prohibit all freedom camping at the beach. We acknowledge this environment can contain some sensitive marine areas that are worthy of protection (e.g. sand dunes, tussock grass, nesting areas), however, the Council's definition of this area appears much broader and includes areas where vehicles are lawfully permitted to park during the day. In which case, it is unfair and nonsensical to protect an area from motor caravans via a freedom camping bylaw but continue to enable other vehicles unrestricted access to the same areas during the day.
42. "Beach/coastal areas" as a basis for protecting the area is not sufficient in order to explain what it is about each area that requires protection. This is an overly basic description of the area, not an explanation for why section 11(2)(a)(i) of the FCA applies. Again, the Council is taking a 'blanket' approach as opposed to considering the problems (if any) that are relevant to each beach or coastal area.

#### *Health & safety risks from tides*

43. Justifying prohibition on the basis of health and safety risks from tides and extreme weather events is not particularly convincing. While tides might potentially be relevant to freedom camping in tents, it seems very unlikely to pose much of a risk to most camping vehicles given their mobility and ability to vacate an area at short notice. Extreme weather events may be as much of a risk in other parts of the Hurunui district as they are at the beach. Again, there has not been any apparent effort by the Council to consider the risks involved with specific beaches and coastal areas.

#### *Access to public beach/coastal environments needed*

44. This reason as a justification for section 11(2)(a)(iii) applying seems weak. It is not at all clear from the Council's analysis how exactly freedom camping will harm current access so as to warrant outright prohibition. There is no consideration of the particular access routes that exist to various beaches and coastal areas.

#### *Suggested amendments*

45. Research undertaken by the NZMCA and other independent organisations (including local authorities, academic institutes, and research companies) confirms New Zealanders enjoy freedom camping in residential/urban areas when visiting friends and family, or wanting to patronise local businesses. Parking overnight in town and supporting local

businesses is the underlining purpose the MHFT partnership, of which the Council has expressed an interest in since 2014. The research confirms freedom campers in CSC vehicles also navigate towards the coast, which is not surprising given beach-side camping is a quintessential kiwi way of life.

46. The Council cannot argue the bylaw upholds the permissive intent of the FCA when it effectively denies New Zealanders the ability to enjoy freedom camping in the most desirable areas. The current approach falls well short of the criteria for becoming an official MHFT.
47. In lieu of the urgent further information requested, the NZMCA recommends restricting freedom camping to CSC vehicles in all settlement areas save for any specific prohibited areas. This is a more reasonable and consistent approach with the premise of the FCA. Lumsden (Southland) is one of many good examples to follow. We also recommend removing the blanket prohibition across all beach and coastal environments, save for any specific prohibited areas.

*Definition of a 'certified self-contained vehicle'*

48. The proposed definition includes the phrase "...and any subsequent amendments". This suggests the Council will automatically enforce the provisions of any future amendment to NZS 5465, prior to amending the bylaw. We have received legal advice from Simpson Grierson (attached) explaining the risks with this approach why the Council should review the bylaw following each amendment to NZS 5465, to avoid issuing invalid infringement notices. Taking onboard this legal advice, we recommend relying on the definition of a self-contained vehicle provided for in the Model Freedom Camping Bylaw (download a copy from Local Government New Zealand's website):

***Self-contained vehicle** means a vehicle designed and built for the purpose of camping which has the capability of meeting the ablutionary and sanitary needs of occupants of that vehicle for a minimum of three days without requiring any external services or discharging any waste and complies with New Zealand Standard 5465:2001, as evidenced by the display of a current self-containment warrant issued under New Zealand Standard Self Containment of Motor Caravans and Caravans, NZS 5465:2001.*

**Comments on the proposed amendments to the Reserve Management Plan 2012**

49. With regards to complying with the Reserves Act 1977, legal advice and that received from the Department of Conservation suggests the Council can use the delegated powers that it received from the Minister of Conservation back in 2013 to permit freedom camping in certain reserves, e.g. local purpose, scenic and recreation reserves, in the absence of a reserve management plan policy that specifically provides for the activity.

50. Our reading of the proposed amendment to policy 9(b) is that the Council will allow CSC freedom camping in all public reserves if the bylaw also enables the activity, in which case we support (in principle) the proposed amendment. Please advise us prior to the hearing if this is not the Council's intention.

### **Summary**

51. Taking into account the NZMCA's submission points, we strongly recommend the Council defers any decision until it has reviewed and adequately assessed all mapped settlement areas and beach and coastal environments.

52. The NZMCA wishes to speak to this submission and we request the following information in order to prepare for the hearing:

- a) Copies of any proportionality tests relevant to the settlement areas and beach and coastal environments;
- b) What the "certain amenity values" are;
- c) For each of the mapped settlement areas, the specific section 11(2) reasons which apply to each. More particularly, list in relation to each mapped area whether there is a perceived problem in relation to:
  - i. Amenity values (and describe the relevant amenity values affected);
  - ii. High volumes of traffic and pedestrians (and confirm whether this is true during business hours, daylight hours or at all times);
  - iii. Lack of facilities; and
  - iv. Limited parking on roadsides for residents and businesses.
- d) Any other relevant information that the Council believes will assist in responding to the various matters and concerns discussed above.

Yours faithfully,  
New Zealand Motor Caravan Association Inc.



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