Statement of Proposal

Absolutely Positively Wellington City Council
Me Heke Ki Pōneke

Public Places Bylaw (Freedom Camping) Update 2023

September 2023

Summary of information

Proposal to review the freedom camping rules of the Public Places Bylaw 2022 (the Bylaw)

Wellington City Council (the Council) proposes to extend the four-day restrictions currently applying to the two designated restricted areas for freedom camping, i.e., Evans Bay Marina and Te Kopahou Visitors Centre carpark (as specified in Schedule One of the Public Places Bylaw 2022), to all freedom camping areas across the whole city.

We are proposing to extend the four-day restriction areas to all freedom camping areas to improve consistency of the regulations. Additionally, this proposal will help provide clear authority for Council officers to take enforcement actions against infringement offences in the future.

This proposal changes the freedom camping rules of the Bylaw and may affect the interests of some freedom campers through restricted camping time. The Council is undertaking public consultation on this proposal according to the Local Government Act 2002.

The changes to the relevant freedom camping related definitions and rules are specified at the end of the Statement of Proposal for reference.

The process and timeframe for the proposal is outlined in the following table:

Activity	Timeline
Approval to carry out public consultation on the Statement of Proposal by Kōrau Mātinitini Social, Culture and Economic Committee	31 August 2023
Public consultation	14 September – 13 October
Hearing of oral submissions and deciding to adopt the revised freedom camping rules	23 November 2023
Updated freedom camping rules of the Bylaw come into force	7 December 2023

We want to hear from you

Please let us know what you think about the review and proposed changes to the freedom camping rules of the Bylaw.

To provide your feedback on the proposed changes to the freedom camping rules, you can:

- **make a submission online** at www.letstalk.wellington.govt.nz/freedom-camping-rules
- **download a submission form from the website and email** it to policy.submission@wcc.govt.nz
- **fill in the submission form** and send it to:

  Freepost 2199
  Freedom Camping Rules Review
  Policy Team 259
  PO Box 2199
  Wellington 6140

- **drop off a completed submission form** to Arapaki Service Centre at 12 Manners Street.
- Printed copies of this Statement of Proposal are available:
  - at Arapaki Service Centre and Library
  - at all Wellington City Libraries
  - by emailing policy.submission@wcc.govt.nz or phoning 04 499 4444 to request a copy.

If you wish to make an oral submission to Councillors (at the scheduled meeting on 23 November 2023), please indicate this on the submission form and ensure that you have included your contact details. We will contact you to arrange a time for you to speak.

Written submissions open on 14 September 2023 and close at 5pm on **Friday, 13 October 2023**.

Background

1. The Self-contained Motor Vehicles Legislation Act 2023 changes freedom camping rules. Under the new legislation, you can only freedom camp on local authority land if your vehicle is certified self-contained. The definition and requirements for a self- contained motor vehicle and the associated infringement fees have also changed.

2. The new national rule only applies to motor vehicles (not tents or other temporary structures). This means that the default position is that freedom camping in a tent or other temporary structures on local authority land is permitted. In addition, the changes to freedom camping rules do not apply to:

    a. Camping in vehicles at commercial campsites

    b. Camping in vehicles on private land.

3. The Act states that if there is an inconsistency between the Act and an existing bylaw, the bylaw has no legal effect to the extent of the inconsistency with the Act. This means that the requirements in the Act prevail over the inconsistency in the bylaw.

4. The Council is making changes to the freedom camping rules of the Public Places Bylaw 2022 to ensure the Bylaw is consistent with the legislation and continues to have legal effect.

5. While the current freedom camping rules are working as intended generally, the Council has been dealing with complaints about freedom camping for a lengthy period of time or on an on-going basis on street in residential areas. However, there are no specific legal authority under which the Council can undertake effective enforcement actions.

Proposed changes and rationale

6. Allowing freedom camping in a tent or other temporary structure without restriction is inconsistent with the national rules for motor vehicles. Furthermore, Wellington has few suitable areas for freedom camping using a tent or other temporary structure. The Council considers that the four-day restriction currently applying to the two designated areas for freedom camping (i.e., Evans Bay Marina and Te Kopahou Visitors Centre carpark) should also apply to freedom camping using a tent or other temporary structure to ensure consistent regulation.

7. To address the complaints related to freedom camping in residential areas discussed above, we propose to extend the four-day restriction (currently applying to the two designated freedom camping areas for a motor vehicle) to all the restricted freedom camping areas across the whole city. This proposal will help ensure consistency of regulation and provide the Council with a clear authority to take enforcement actions against infringement offences under the Bylaw in the future.

8. While there are multiple other options for the timing restrictions for freedom camping, the four-day option is the preferred option as this is currently applying to the two designated areas. Compared with many other councils' restrictions, the four-day restriction is a generous one, for example, Christchurch only allows two nights for self-contained vehicles, Taupō allows three nights for all campers, and Queenstown allows two nights for freedom camping.

Legislative (including the Bill of Rights Act 1990) implication

9. The New Zealand Bill of Rights Act 1990 provides the right to freedom of peaceful assembly (section 16), association (section 17) and movement (section 18). The Freedom

Camping Act 2011 provides a specific statutory framework for local authorities to manage camping by only restricting these rights in areas where it is justified and necessary.

10. The freedom camping rules are part of the Public Places Bylaw, which was adopted in 2022 after a review. This part of the Bylaw is still the most appropriate way of addressing problems associated to freedom camping.

11. The extension of the four-day restrictions for freedom camping represents a minor additional restriction of public freedom and does not unlawfully interfere with the rights of people to move and reside in Wellington. The restrictions are reasonable under the Freedom Camping Act in the interests of consistent regulation for protecting public places.

Changes to the definition, rules and penalty in the Bylaw

Definitions of freedom camp and self-contained

Freedom camp means to camp (other than at a camping ground) within 200m of an area accessible by a motor vehicle ~~accessible area~~ or within 200 meters of the mean low-water springs line of any sea or harbour, or on or within 200m of a formed road or a Great Walks Track, using ~~1~~ either or ~~more~~ both of the following:

a. a tent or other temporary structure;

b. ~~a caravan; and/or~~

c. a ~~car, campervan, house truck, or other~~ motor vehicle.

Freedom camping does not include the following activities:

a. temporary and short-term parking of a motor vehicle;

b. recreational activities commonly known as day-trip excursions; and/or

c. resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.

Freedom camping provisions will not be used against the homeless. A person is not freedom camping if the person is unable to live in appropriate residential accommodation.

Self-contained has the meaning set out in section 5 of the Freedom Camping Act 2011.

Freedom camping rules: 13. Freedom camping

Restricted and prohibited areas as outlined in Schedule One Overall freedom camping rules

13.1 A person must not freedom camp in an area in which freedom camping is prohibited, as identified in Schedule One: Restricted and Prohibited Areas for freedom camping (18.8MB PDF), unless they have prior written approval from the Council.

13.2 ~~13.4~~ Camping is prohibited on all land managed under the Reserves Act 1977 and Wellington Town Belt Act 2016 unless allowed in a reserve management plan or the Wellington Town Belt Management Plan 2018. ~~Campers are advised to camp in the restricted areas identified in Schedule One of this Bylaw. For clarity, the Freedom Camping Act's non-site-specific offences do apply to Council reserves, and any site-specific restrictions or prohibitions on Council reserves to be administered under this Bylaw must be included in Schedule One of this Bylaw.~~

13.~~2~~ 3 Freedom camping is restricted in all other Wellington areas. The restrictions that apply to freedom camping in all those areas are:

a. A motor vehicle must be a certified self-contained vehicle to freedom camp. The statutory provision for technical requirements and transition period for self-containment will be followed.

b. A motor vehicle or a tent or other temporary structure must not stay in any one area for more than four nights in any calendar month.

c. A motor vehicle or a tent or other temporary structure must not freedom camp within 500 metres of an area in which it has already been freedom camping for four nights in any calendar month.

d. Freedom camping is further restricted in the areas identified in Schedule One of this bylaw.

~~13.2 A person may camp in an area in which freedom camping is restricted, as identified in Schedule One: Restricted and Prohibited Areas for freedom camping, but must comply with any specific restrictions listed for that site unless they have prior written approval from the Council that waives these restrictions.~~

~~13.3 Freedom camping is permitted in any local authority area in Wellington City, unless it is restricted or prohibited in an area under this Bylaw or any other enactment.~~

Prior written approval from the Council

~~13.5 A written application is required two weeks in advance of the planned date for approval to camp in a prohibited area.~~

~~13.6 A written application is required two weeks in advance of the planned date for approval to camp in a restricted area.~~

~~13.7 Freedom camping in Wellington is restricted or prohibited as illustrated and described within the following aerial photographs: Schedule One: Restricted and Prohibited Areas for Camping (18.8MB PDF).~~

Approval process

13.~~8~~ 4 Written applications will be considered for camping in public places for special purposes. Approval may be granted at the Council's sole discretion, with or without conditions.

13.5 Applications to camp in accordance with clause~~s~~ 13.1 ~~and 13.3~~ above must be made in writing two weeks in advance of the planned date for approval to camp in the respective prohibited or restricted area. A written application must provide the following information:

a. the location;

b. the duration of occupation;

c. the number of people;

d. the provisions to ensure that there is no damage or effects to the public place; and

e. the reason why the camping is proposed.

Penalties

24.1 A person in breach of clause 13 of this Bylaw commits an offence under the Freedom Camping Act 2011 and is liable to a fine not exceeding ~~$200~~ 400.

Clean text of the updated definition, rules and penalties

Definitions of freedom camp and self-contained

Freedom camp means to camp (other than at a camping ground) within 200 meters of an area accessible by a motor vehicle or within 200 meters of the mean low-water springs line of any sea or harbour, or on or within 200 meters of a formed road or a Great Walks Track, using either or both of the following:

a. a tent or other temporary structure

b. a motor vehicle.

Freedom camping does not include the following activities:

a. temporary and short-term parking of a motor vehicle;

b. recreational activities commonly known as day-trip excursions; and/or

c. resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.

Freedom camping provisions will not be used against the homeless. A person is not freedom camping if the person is unable to live in appropriate residential accommodation.

Self-contained has the meaning set out in section 5 of the Freedom Camping Act 2011.

Freedom camping rules: 13. Freedom camping

Overall Freedom Camping Rules

13.1 A person must not freedom camp in an area in which freedom camping is prohibited, as identified in Schedule One: Restricted and Prohibited Areas for freedom camping (18.8MB PDF), unless they have prior written approval from the Council.

13.2 Camping is prohibited on all land managed under the Reserves Act 1977 and Wellington Town Belt Act 2016 unless allowed in a reserve management plan or the Wellington Town Belt Management Plan 2018.

13.3 Freedom camping is restricted in all other Wellington areas. The restrictions that apply to freedom camping in all areas are:

a. A vehicle must be certified self-contained vehicle to freedom camp. The statutory provision for technical requirements and transition period for self-containment will be followed.

b. A vehicle or a tent or other temporary structure must not stay in any one area for more than four consecutive nights in any calendar month.

c. A vehicle or a tent or other temporary structure must not freedom camp within 500 metres of an area in which it has already been freedom camping for four nights in any calendar month.

d. Freedom camping is further restricted in the areas identified in Schedule One of this bylaw.

Prior written approval from the Council

13.4 Written applications will be considered for camping in public places for special purposes. Approval may be granted at the Council's sole discretion, with or without conditions.

13.5 Applications to camp in accordance with clauses 13.1 above must be made in writing two weeks in advance of the planned date for approval to camp in the respective prohibited or restricted area. A written application must provide the following information:

a. the location;

b. the duration of occupation;

c. the number of people;

d. the provisions to ensure that there is no damage or effects to the public place; and

e. the reason why the camping is proposed.

Penalties

24.1 A person in breach of clause 13 of this Bylaw commits an offence under the Freedom Camping Act 2011 and is liable to a fine not exceeding $400.