



Statement of Proposal
under Special Consultative Procedure as per
Section 86 of Local Government Act 2002:

Responsible Freedom Camping Bylaw 2024

THE PROPOSAL:

Westland District Council (the Council) is reviewing its regulatory approach to freedom camping. This statement of proposal details the Council's proposal to make a new Responsible Freedom Camping Bylaw under Section 11 of the Freedom Camping Act 2011 (the Act). A draft of the Proposed Bylaw is attached to this statement of proposal.

Submissions open: 25th October 2024

Submissions close: 25th November 2024

Hearing date: 5th December 2024

Westland District Council (the Council) is reviewing its regulatory approach to freedom camping. This statement of proposal details the Council's proposal to make a new Responsible Freedom Camping Bylaw under Section 11 of the Freedom Camping Act 2011 (the Act). A draft of the Proposed Bylaw is attached to this statement of proposal.

We are seeking feedback on the proposed Responsible Freedom Camping Bylaw 2024. Consultation allows the community to have a say on the content, and changes to, the Proposed Bylaw. Council welcomes your feedback with consultation open from 25th October 2024 to 25th November 2024.

This statement of proposal has been made for the purposes of section 82, 84 and 86 of the Local Government Act 2002 and section 11B of the Freedom Camping Act 2011.

1. What is Freedom Camping

Camping as an activity is managed through a range of other plans, bylaws and legislation. The Council does not currently have a freedom camping bylaw, and as a result, cannot effectively regulate or enforce rules relating to freedom camping at any parks or other Council land that is not gazetted Reserve.

The Act is permissible by default, which means its starting point is to allow freedom camping on all Council controlled or managed land, unless prohibited under other legislation (such as the Reserves Act 1977). However, the Act does not recognise that some areas under control or management of councils may not be suitable for freedom camping and enables councils to make a bylaw to protect these areas. This includes protecting an area, protecting the health and safety of the people who may visit an area, and to protect access to an area.

Freedom camping bylaws can identify areas where freedom camping is prohibited and restricted to, manage how and where freedom camping can occur, and what additional conditions may be needed in some areas. Bylaws can also identify areas where freedom camping can occur in vehicles that are not self-contained.

Any restrictions or prohibitions on freedom camping must be consistent with the Act and can only be applied if the restrictions or prohibitions are proportionate, and within the scope of the criteria within section 11(5) of the Act. According to the Act, areas may only be prohibited or restricted for the following reasons:

- (i) to protect the area
- (ii) to protect the health and safety of people who may visit the area
- (iii) to protect access to the area

Areas must be assessed against these criteria before any restrictions or prohibitions are applied to ensure the Bylaw is appropriate, proportionate, consistent, and defensible.

A freedom camping bylaw made under the Act cannot address issues other than camping as defined by the Act. This definition does not include staying at a camping ground, temporary or short-term parking of a motor vehicle, day trips, or resting or sleeping at the roadside to avoid driver fatigue. It also explicitly excludes those experiencing homelessness who may be living in their vehicle. The land covered by the Act is also limited to those areas controlled or managed by Council, and does not include private land or Department of Conservation (DOC) reserves.

2. Changes to National Legislation

The Self-contained Motor Vehicles Act 2023 came into force in June 2023 and made amendments to the Freedom Camping Act 2011. A key change made by the amendment means that since June 2023, if a person is freedom camping on council controlled or managed land using a vehicle, they must be using a certified self-contained vehicle to freedom camp. The definition of self-contained has been updated to require a fixed toilet. These changes apply nation-wide, regardless of whether or not a Council has a bylaw. There is a transition period to allow people with current 'blue sticker' certifications (under the old certification requirement) time to move to the new 'green sticker' certification (where a fixed toilet will be required) over the next two years.

Changes were also made to the infringement fees and fines structure under the Act. The original infringement fee of \$200 has been replaced by a new tiered penalty system which came into force on 13 July 2023 and provides Councils with more options to apply fines proportionate to the breach of a freedom camping bylaw or the Act.

3. Options Considered

Westland District is a popular destination for campers, however, the District faces a number of challenges in balancing the needs of these visitors with the wellbeing of the communities that host them. The coastline, in particular, is a place of historical, cultural and environmental significance, home to important archaeological sites, unique ecosystems and biodiversity. It is also vulnerable to the impacts of severe weather, coastal erosion and climate change with infrastructure and access to remote communities at risk.

The broad geographical distribution of the District presents an additional challenge for enforcement and heightens concerns for health and safety of both visitors and local communities. Any regulation imposed by a freedom camping bylaw must reflect these challenges and regulations must be balanced with the corresponding expectation of enforcement from the community.

Council can consider five ways to address matters related to freedom camping:

- i. Do nothing –

Under this, the Council maintains the status quo of having no bylaw and the Freedom Camping Act 2011 would apply. Under section 10 of that Act, freedom camping is generally permitted, subject to restrictions and prohibitions provided for in other legislation. A key area where such restrictions apply are in reserves, where the use of these areas for temporary accommodation, such as freedom camping, is restricted by section 44 of the Reserves Act 1977.

- ii. Make a bylaw under the Local Government Act 2002 –

This would restrict or prohibit freedom camping in some areas and, in accordance with section 10(b) of the Freedom Camping Act 2011, would be controlling freedom camping 'under any other enactment'.

- iii. Use reserve management plans –

This would permit freedom camping on some reserves, where it is appropriate to do so. Freedom camping would continue to be prohibited on all other reserves, but would be permitted on all other Council land, under the Freedom Camping Act 2011.

- iv. Add rules to the district plan –

Rules controlling freedom camping could be added to the Council’s Proposed District Plan by using the plan change process set out in the Resource Management Act 1991.

- v. Make a bylaw under the Freedom Camping Act 2011 -

This would restrict or prohibit freedom camping in some areas, including allowing freedom camping with restrictions on some reserves, where it is appropriate to do so.

Council considered the above options and given Council previously had a bylaw, concluded that creating a bylaw under the Freedom Camping Act 2011 would be the most reasonably practicable solution for addressing the issues caused by freedom camping.

4. What is Council proposing?

The Proposed Bylaw includes rules for Freedom Camping across the district including identification of prohibited and restricted areas. The Proposed Bylaw seeks to protect areas, the health and safety of people using areas, and protecting access to areas, from negative impacts caused by freedom camping.

A summary of the Proposed Bylaw is detailed below. The Proposed Bylaw is also attached to this document in full.

General provisions

The Proposed Bylaw follows a similar form that other councils use, in order to better support freedom campers as they travel the country and seek to understand the different rules within each district. Where possible, the defined terms in the bylaw like ‘Self-contained’ and ‘Freedom Camping’ directly link back to the Act to limit any potential inconsistencies, however, the Proposed Bylaw includes copies of the relevant parts of the Act to make it easy for the meaning of those defined terms to be understood without needing to review the legislation.

The Proposed Bylaw provides Council with a tool to temporarily close an area to freedom camping if required to protect an area, protect the health and safety of the people who may visit an area, and to protect access to an area, and also provides a mechanism for an exemption to be granted if a person needs to freedom camp in a prohibited or restricted area, such as during an event.

The Proposed Bylaw does not specify District-wide rules in addition to those general requirements under the Act. Instead, the bylaw aims to formalise areas which are currently understood to be camping areas within the district, areas which experience problems associated with freedom camping, or areas which require additional protection. These areas are defined in the Schedules of the Proposed Bylaw and indicative maps of the areas are included as well.

Incorporation of NZ Standard by reference – Certified Self-contained

The Proposed Bylaw uses the definition of certified self-contained motor vehicle within the Act. To support and provide further information to this definition, the Proposed Bylaw also incorporates by reference the NZ Standard 5465:2001 Self containment of motor caravans and caravans which has further detail of the more technical requirements of certification.

As required by clause 1 of Schedule 2 of the Legislation Act 2019, this statement of proposal is public notice of the proposal to incorporate the NZ Standard in the Freedom Camping Bylaw. The NZ Standard

is incorporated by reference because it is impracticable to include its content in the bylaw. The NZ Standard is publicly available here where it can be viewed or printed once for free. We are seeking feedback on the incorporation of the NZ Standard in the Proposed Bylaw, particularly comments about whether:

- the Proposed Bylaw clearly identifies the material incorporated; and
- the means of making the NZ Standard publicly available is sufficient to enable people to find and obtain copies of it with reasonable ease; and
- it is otherwise appropriate.

The standard can be viewed or printed once for free at this link:

<https://www.standards.govt.nz/shop/nzs-54652001>

5. Specific Area Restrictions

Any potential areas for prohibition or restriction must be first assessed against the criteria in section 11(2) of the Act before being included in a freedom camping bylaw. This section states that councils can only prohibit or restrict freedom camping in an area if this is necessary to:

- (i) protect the area - to protect areas that are environmentally or culturally sensitive.
- (ii) protect health and safety - to keep freedom campers and other visitors to an area safe.
- (iii) protect access to the area - where the presence of freedom campers could block access or damage infrastructure.

The assessments were completed using a tool which is used by many New Zealand councils and is considered best practice by the sector. This assessment looks at each of the three elements outlined in section 11(2) of the Act to determine whether prohibiting or restricting freedom camping is appropriate in the area. The tool provides councils with a standardised and transparent way of applying the Act and demonstrates a clear line of sight between the criteria in the Act, and the bylaw.

Prohibitions and restrictions have been included in the bylaw to formalise areas for freedom camping as well as identifying areas which require protection through a bylaw under the Act. These prohibitions and restrictions are proposed with consideration for the enforcement challenges present in the District. Consideration has been given to ensure an appropriate and practical balance between the need for and benefits of protection and the ability for enforcement, with the understanding that there is a relationship between the complexity of regulation and the level of service expected by the community.

As a result of this assessment, the Proposed Bylaw includes the following prohibitions and restrictions.

Prohibitions

The Proposed Bylaw prohibits freedom camping in the following township areas:

- Kaniere
- Ruatapu
- Ross
- Harihari
- Okarito
- Fox Glacier
- Bruce Bay
- Hannahs Clearing

- Okuru
- Neils Beach
- Jacksons Bay

Specific Area Restrictions

The Proposed Bylaw places restrictions on freedom camping in the areas of:

- Kumara
- Hokitika
- Rimu/Woodstock
- Kakapotahi
- Franz Josef
- Paringa
- Haast

Freedom camping in these urban areas is restricted to certified self-contained and non self-contained (depending on the area) for a maximum of two nights in one location within a 30-day period. These restrictions ensure that freedom campers can visit and enjoy the townships’ amenities while protecting access to these areas and the health and safety of residents and visitors alike, by ensuring short stays that will not adversely impact on any one location within the townships.

6. Enforcement Options

Council has considered the enforcement challenges across the district and discussed five enforcement options at a Council Workshop on 9th October 2024. These options are listed below in Table 1 for consideration when providing feedback on the Proposed Bylaw.

Table 1. Freedom Camping Enforcement Options

Enforcement Options	Cost	Positives	Negatives
No Enforcement	Nil	<ul style="list-style-type: none"> • No cost to Council. • No time cost to Council staff. 	<ul style="list-style-type: none"> • Too many campers overcrowding popular areas. • Adverse impacts on the environment. • Communities may take some unlawful actions against freedom campers out of frustration resulting in conflict. • Adverse media attention. • Backlash from ratepayers and reputational damage to Council.
Community Volunteers	Donation to Community	<ul style="list-style-type: none"> • Communities will be able to control and monitor camping in their area, provide advice to campers and issue infringements where required. 	<ul style="list-style-type: none"> • Possible overzealous volunteers resulting in conflict situations with campers. • Council will not be able to moderate or control volunteers.

		<ul style="list-style-type: none"> Some income may be generated from infringements. 	<ul style="list-style-type: none"> Misuse of powers by the volunteers and conflicts of interest. Inconsistency in enforcement across the District.
Current Council staff	Nil	<ul style="list-style-type: none"> Some enforcement will be undertaken. Training will be consistent and appropriate. Some income may be generated by infringements. 	<ul style="list-style-type: none"> Limited numbers of staff working after hours when freedom camping is taking place. Likely to be lots of calls for service in locations far away from staff. Increase in current staff workload. Has significant flow on effects for other Council services. Inconsistency in enforcement across the District.
Council Staff (New position/short term contract)	\$50-100k approx.	<ul style="list-style-type: none"> Coverage will be provided across the whole District. Local staff employed in hotspots. Training will be consistent and appropriate. Correct lines of accountability and control. Income will be generated by infringements. The scheme may self-fund if it is set up correctly. 	<ul style="list-style-type: none"> High cost to Council. Reliant on ratepayers funding. May be hard to find staff to hire in isolated locations.
Third Party Contractor	TBC	<ul style="list-style-type: none"> Coverage will be provided across the whole District. Income will be generated by infringements. The scheme may self-fund if it is set up correctly. 	<ul style="list-style-type: none"> High cost to Council. Possible overzealous enforcement. Diluted lines of control through a third party.

7. New Zealand Bill of Rights Act 1990

The Council must determine whether the bylaws made under the Local Government Act 2002 give rise to any implications under the New Zealand Bill of Rights Act 1990.

This bylaw is similar to bylaws used by other territorial local authorities, and there is no legislative commentary reviewed that would suggest Bill of Rights implications. The Proposed Bylaw content is considered to reflect a suitable balance between personal freedoms and community protection, and is not considered to have discriminatory effects.

KEY DATES

SUBMISSIONS OPEN: 9am 25th October 2024

SUBMISSIONS CLOSE: 5pm 25th November 2024

HEARING, DELIBERATION AND DECISION: 9am 5th December 2024

Revisions applied: The revisions will generally take effect the day after the decision is made by Council.

The Responsible Freedom Camping Bylaw 2024 can be found [here](#).

SHARE YOUR FEEDBACK

IN PERSON You have the option to speak to Council during the hearing. If you have not provided a written submission either call or email us to discuss this option.

If you make a submission in writing you can tick the box on the online submission form to advise that you would like to speak at the hearing, or advise us in your email or letter and we will get in touch with you.

ONLINE You can make your submission online. Go to: <https://www.westlanddc.govt.nz/responsible-camping-bylaw/>

IN WRITING You can make a written submission by post or by sending us an email, or complete, scan and email the printable submission form.

POST: Westland District Council, 36 Weld Street, Hokitika 7811

EMAIL: infrastructure@westlanddc.govt.nz

OVER THE PHONE: If using the online submission form or sending an email is not an option, you can make a submission by calling Council on the number below:

PHONE: 03 756 9010

FREEPHONE: 0800 474 834

Please note, submissions will be publicly available on the council's website, through inclusion in council agendas, and/or retrievable by request under the Local Government Official Information and Meetings Act 1987. Contact details will redacted under the Privacy Act 2020.

If you have any questions about the Proposed Bylaw, or the submission process, please let us know. Call us on 03 756 9010 or 0800 474 834 and let our friendly Customer Services staff know you have a question about the Proposed Freedom Camping Bylaw or contact us via email at infrastructure@westlanddc.govt.nz.

Share your Feedback – Draft Responsible Freedom Camping Bylaw 2024

Submissions close at 5pm Monday 25 November 2024

Submissions hearing: 5 December 2024

Westland District Council is seeking public feedback on its proposal to make a new bylaw which will manage the negative impacts of freedom camping whilst ensuring everyone, including visitors to the Westland region, can continue to enjoy our open spaces.

Full details of the proposed changes are set out in the Statement of Proposal, which can be read alongside the Proposed bylaw and other *information on our website*: <https://www.westlanddc.govt.nz/responsible-camping-bylaw/>

Please **scan and email** this form to the Council. **Email:** infrastructure@westlanddc.govt.nz

You can also **call** us with your submission and use the form to help you.

Phone: 03 756 901

Freephone: 0800 474 834

Name* _____ Organisation (if applicable) _____

Email* _____ Address _____

Telephone _____ Township* _____

I would like to speak to Council about my submission At the meeting in the Council Chambers

Through a remote option (Zoom link or telephone)

I do not wish to speak to my submission

**Required*

Do you think Westland District Council should introduce the Proposed Responsible Freedom Camping Bylaw?

I support Council introducing the Proposed Bylaw I do not support the Proposed Bylaw Other

Tell us why:

The Proposed Bylaw allows for freedom camping in both certified self-contained and non-self-contained vehicles, do you agree?

Yes, I agree No, I do not agree

Tell us why:

More pages can be attached if necessary.

The Proposed Bylaw allows for freedom camping in restricted areas across the Westland District. Are there any sites that you oppose?

Yes, there are sites I disagree with No, the proposed sites are acceptable

Tell us why:

More pages can be attached if necessary.

Is there anything else you would like the Mayor and Elected Members to consider?

More pages can be attached if necessary.