



Investigative Report into NZS;5465 Self Containment of Motor Caravans And Caravans.



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Introduction

RCAi has for some time now, fielded numerous complainants about the use of NZStandard 5465;2001 and amendments.

These complaints have included issues such as;

- *The implementation of the Standard by Councils and Department of Conservation.*
- *The often contradictory nature of the Standards requirements.*
- *The procedure used around changes to the Standard in 2017 including allegations that correct process was not followed as required by Standards Legislation.*
- * That a private organization uses the NZStandard to misrepresent their claimed authority under the Standard.*
- *That the same private organization uses the Standard to drive their own agenda in a manner that can not be justified in a fair and democratic society.*
- * That the Standard is implemented in a manner, which it is alleged breaches the freedom camping Act 2011, Bylaws Act 1910 (Section 17) and NZ Bill of Rights Act.*
- *Inconsistencies around issuing of Certification.*
- *Failures identified in Check-sheets with Certification issued anyway.*
- *Inability of some Inspectors to issue certificates, therefore relying on outside issuers to do so, often resulting in misleading representations.*

Background

The NZStandard had its beginnings in 1990 and included until 2001, self containment provisions for boats as well as Motor Caravans & Caravans.

Until 2012 Ministry for the Environment (MoE) held the Administrative duties under the Act. In 2012 MoE resigned from that position, which left the Standard with no Government over sight or regulatory body.

For the most part since then, a private organization has misrepresented itself as having some Authoritative oversight of the Standard and has funded the Amendments dated May 2017.

For the reason of this Investigative report we focus on issues since 2011 and the creation of the Freedom Camping Act.

Freedom Camping Bill.

For reasons of clarification we include this short segment on the 'Freedom Camping Bill' specifically to make note that the inclusion of the NZS;5465;2001 was promoted by New Zealand Motor Caravan Association (NZMCA) which ultimately failed. This was while Ministry of Environment still held the Administrative Authority for the standard.

New Zealand Motor Caravan Association Inc (NZMCA)

A private organization representing the interests of their members who own and use, as part of their recreational activities, Motor-Caravans and Caravans. An Incorporated private organization under the Incorporated Societies Act 1908 and holding the Tax Status of "Non Profit". They also have several related businesses which appear to be profitable with turnover in the Millions of dollars pa range. It is difficult to determine where the non-profit club starts and finishes and the Businesses take over.

Investigation

For the most part since 2011, NZMCA promoted the use of NZStandard to Councils through out New Zealand to use as a limitation on freedom campers ability to freedom camp. Most of this promotion was completed thru Local Government New Zealand, who supported NZMCA in their endeavors.

NZMCA funded a draft Freedom Camping bylaw written by Chen Palmer Law, which was used to promote the NZStandard to Councils with suggestions that the draft bylaw would be compliant with the Freedom Camping Act, NZ Bill of Rights, Bylaws Act 1910, etc.

For the most part from 2011 until 2017, NZMCA went unchallenged on any actions it undertaken by them.

In early 2017, RCAi was established out of concern the Freedom Camping Act was being used against the homeless sleeping in their cars - a defined mode of freedom camping under the Act. It quickly became obvious that issues around freedom camping and particularly the use and promotion of NZS;5465 :2001 since 2011, was having unintended consequences not only for the homeless, but for many other outdoors recreation persons that freedom camped as part of those activities.

Particularly it was noted that only those persons using Motor Caravans & Caravans (RV's) were able to be "Certified" as self contained and therefore meet the requirements of the Standard.

Meantime the standard was being promoted to Councils and other stakeholders in a manner that affected all freedom campers, including those unable to be 'certified' under the Standard (Non RV based Campers). As a direct result of that promotion, many other outdoor users are being denied the ability to camp as part of their outdoor recreation.

Some freedom campers defined by the Act, that are unable to be "Certified" under NZS;5465, or to attend to specific camp sites by night, have been identified as;

**Cycle tourists*

**Hunters (The Freedom Camping Act applies equally to the Back Country)*

** Trampers and other walkers / runners.*

** Water users (That camp on shore by night, ie rafters, kayakers etc)*

Once an thorough understanding of the coverage of the Freedom Camping Act is established, it is easy to estimate that the group able to be 'certified' under NZS;5465 is less than 20% of all campers.

SO WHY ARE "ALL" FREEDOM CAMPERS HAVING NZS;5465 USED AS

A RESTRICTION AGAINST THEM?

During 2016, it was noted by many of the camping public, that NZMCA were starting what could only be considered as a 'dislike campaign' against smaller camper-vans, often stating things like they could not be certified under NZS;5465 etc.

By late 2016, it was public knowledge that NZMCA were funding amendments to the Act, requiring that camp type toilets would have to be usable within a camping vehicle in order to meet the new requirements of the amended standard. In so doing they represented themselves as an Authority under NZS;5465 - a position they do NOT hold. These amendments were specifically, by nature, targeted at smaller camper- vehicles.

While the main focus of the amendments was to provide solutions for the use of toilets in small camper-vans, the amendment became agenda driven, not solutions driven. (Agenda as in supporting the publicly declared dislike of small campers.) RCAi notes that we have single berth and certified micro campers in New Zealand, often legally rented by established camper-van rental companies such as MAD Campers, who have versions based on the Nissan Cube type vehicles.

Main points;

1/ While the aim to provide a solution for the use of camp toilets in small campers is desirable, and that allowing the use of a toilet tent or awning for a camp-toilet once camping (the only time the standard applies) is indeed a great result / solution (section 6.1.2).

Unfortunately the amendments go on to state that before a toilet tent or awning may be used the toilet must be usable within the 'vehicle' first (section 6.1.1). This concludes that the amendment is agenda driven - there is no need for a requirement that toilets are usable inside

the vehicle first and by stating that as a requirement, it denies the ability for the solution to be used in the majority of cases. In essence the whole amendment becomes pointless - if a camper vehicle has room to use a camp toilet inside there is no issue to begin with. .

RCAi note that small eco-friendly camper-vans are currently the trend overseas and their popularity in NZ in years to come is likely to be greater per head of population due to the nature of our roads and limited sizes of parking places in popular tourist areas.

2/ The amendment is required by Legislation to be both peer reviewed and signed off by an Executive Committee. At both these stages there is a ability to correct any errors in the Amendments, however RCAi respectfully submits that at both these stages little more than a rubber stamping exercise was carried out. RCAi believes that was because of the Funder's perceived authority on all things relating to Freedom Camping.

3/ RCAi discovered by way of OIA, that on the night that amendment was publicly released (31/05/2017) there was a number of emails circulating between NZMCA and NZS (MBIE) concerning the actual wording used with NZS declaring that staff had changed it as they considered it was a better definition. RCAi remains concerned, that wording changes were made when the potential of any changes to change the desired outcome were not even understood.

4/ On 21/02/2018, NZMCA announced a temporary stay on the certification of people mover type vehicles by its self containment officers for a period of 2 years. While the NZMCA are entitled to restrict its own membership in any way it see's fit - when, as happened in this case, it is made in the public arena without justification is irresponsible. By 09th June 2018 and due to members backlash NZMCA had lifted the ban as it related to re-certification of its members own vehicles.

By so doing so, not only have they altered the public perception of small campers, but also brought the NZStandard into disrepute. While the reasoning behind that temporary stay is due to varying interpretations of the new toilet amendment, that must land squarely at the feet of NZMCA themselves.

This year when the temporary ban was due to have been lifted with the issues sorted, the only thing that has occurred is the temporary stay being extended by another year. This has served to further the dislike of small camper-vehicles by the public in general. (See attached "NZMCA Temporary ban...").

5/ RCAi this year lodged a complaint with Commerce Commission over the perceived Authority of NZMCA under the NZStandard, as well as misrepresenting who can issue NZS certificates, and the need to belong to NZMCA to even be 'certified' under the NZStandard. To clarify it was alleged NZMCA knew for several years that RV Dealers were misrepresenting the need to join to NZMCA to get certificates issued (often after the Dealer had had an inspection done under NZS;5465) and / or that only NZMCA members could even be issued with a certificate. The Commerce Commission assessed that the complaint had 'merit' but would seek to educate rather than take legal proceedings against NZMCA.

6/ Part of NZMCA's justification for funding the amendments to the NZStandard were stated as a need to address Community boards and Councils concerns over the non-use of toilets in

smaller Camper-vans - with public statements made by the CEO blaming non-certified self contained campers for the poo he had stood in. Quick consideration would establish that if he knew who was responsible, he would have known it was there not not stood in it ! Unfortunately this has been a common level of evidence found in many claims made by NZMCA.

RCAi has been unable to find any evidence that either Councils or Community Boards, had ever raised the use of toilets in small campers specifically as an issue that needed addressing.

7/ Issue's of compliance with Bill of Rights as required under the Freedom Camping Act, and generally is seen to be 'wanting', due to the use of NZStandard as a restriction on all Freedom Campers while the certification required to allow Freedom Camping is only available to a small minority of campers as the Act defines.

8/ Compliance with Section 17 of the 'Bylaws Act 1910 would also appear to be wanting for much the same reasons as in '7' while also using a Voluntary NZStandard in an attempt to enforce Council bylaws.

“17 Part of bylaw only may be deemed invalid

*If any bylaw contains any provisions which are invalid because they are *ultra vires* of the local authority, or repugnant to the laws of New Zealand, or unreasonable, or for any other cause whatever, the bylaw shall be invalid to the extent of those provisions and any others which cannot be severed therefrom”.*

9/ Early 2018, RCAi was alerted to a number of Check sheets that were hosted online due to them having been issued a Certificate under the Standard. RCAi alongside several qualified Inspectors under the NZStandard proceeded to randomly check 60 of these check-sheets discovering a failure rate of over 90%. At a meeting with a major Tourism Stakeholder in May 2019, it was revealed that one Council had gone beyond checking windscreen warrants under the NZStandard, and had checked the actual vehicles for compliance- it found a similar failure rate.

10/ Many instances of vehicles passing tests done by qualified inspectors which have then been refused the issuing of the required Certification by the Issuing Authority, in many cases for reasons not stated or beyond comprehension. RCAi note in many cases independent Plumbers etc who are allowed to inspect vehicles under the Standard do not have the required facilities to issue Certificates. Items like Plastic Card printers are not cheap so Independent inspectors will often rely on outside issuing agents to issue the actual certificates.

11/ RCAi has often held other groups to account. As a result of one such encounter, RCAi became aware of the changing of potentially 50,000 self containment certificates hosted online. Unfortunately that has now changed into the online certificates being changed 3 times that RCAi are aware of. This is very concerning considering the online host group publicly tell people to go to their website to check vehicles have current certificates etc. The ability to change online versions willy nilly at will, shows a total contempt for the NZS;5465 as a whole.

12/ RCAi are aware of cases where certificates have been issued to vehicles which have not even been inspected by any inspectors.

It is disappointing to realize that a private organization is able to use Govt Departments and NZStandards to promote their agenda to their advantage in this manner - which can is not fair in a just and democratic society.

General Summary.

_RCAi has been disappointed to learn the scope of the definition of 'Freedom camp' as provided by the Freedom Camping Act 2011.

In particular it is difficult to comprehend why a NZStandard that is only available and applicable to a small group of those defined freedom campers, (Motorhomes and Caravans- RV's) has been allowed to be promoted to Councils with absolutely no restriction on who it is to be applied to.

In late 2019 RCAi connected with a number of outdoor recreation groups who freedom camp as a side event to their other main activities. These groups include cyclists, kayaker's, hunters, trampers and others, while we also connected with people with disabilities who also freedom camp.

Of the disabled persons, a number of Campers stated they preferred tent camping to RV camping due to difficulty in accessing Motorhomes with usually narrow door ways and restricted room inside. Tents tend to not have those issues while also allowing a degree of independence not necessarily found when using an RV.

Who knew there were large groups of disabled people touring NZ on adaptive cycles towing trailers with wheelchairs on? Or that some live full time on the road pitching tents by night.

RCAi has helped to home several of these people during the current covid19 crisis.

The others have also been a constant eye opener - to become aware of the many other groups that freedom camp. The majority of these people camp using tents which maybe carried on or in Cycles, Kayaks and back packs.

The wholesale promotion of the self containment standard without any restriction is affecting all these groups in different areas. As can be seen, the wholesale use of the NZStandard as a limitation on Freedom Campers is having effects that are not desired on non RV based campers.

The other requirement that needs to be satisfied to be defined as a Freedom camper under the Freedom camping Act, is to camp within "200 metres of a motor vehicle accessible area" - that motor vehicle only needs to be a motorized trail bike which are able to go practically anywhere.

While RCAi concludes the Standard has some good and possibly valid requirements, it does not make a camper responsible. At best it can assist a camper to be responsible, once they make the decision to camp in a responsible manner. That personal decision is no different if someone meets the requirements of the Standard or not.

The Standard could have done well had it been promoted as a RV only restriction, and only for those RV's that stayed in one place for more than 1 or 2 nights. That it has not, means it has no place in the freedom camping program moving forward. There needs to be a renewed focus on the people camping NOT the facilities within the RV when used.

So what is it the Standard actually seeks to address?

And how can it be justified as a restriction on all campers in a Fair and Democratic society?

Responsible Campers Association Inc, respectfully submits the NZStandard in its present form and use, must be investigated as potentially being a scam and its promotion as Fraudulent. It rarely if ever provides the solutions claimed it provides.

It provides no real purpose. Is discriminatory by nature and appears to only serve to meet the objectives of a private organization. It has no (or little) Government support, while also allowing said private organization to promote its dislike of small camper-vans which in turn (due to public publicity) is causing the general public to dislike smaller camper-vans usually based on insufficient real knowledge.

References;

NZS;5465 self containment

<https://www.standards.govt.nz/assets/Publication-files/NZS5465-2001+A1A2.pdf>

Freedom Camping Act 2011.

<http://www.legislation.govt.nz/act/public/2011/0061/latest/whole.html#DLM3742815>

NZMCA Funded / Chen Palmer model Bylaw

<https://www.lgnz.co.nz/assets/Uploads/Our-work/f4b35476ee/Model-Freedom-camping-Bylaw.pdf>



New Zealand Motor Caravan Association Inc.

"PLEASE SEE LATEST UPDATE BELOW – "People Mover" re-certification"

21 February 2018

Dear NZMCA Members and Self-Containment Officers,

Temporary stay on the certification of people movers and similar small car conversions under the Self Containment Standard NZS 5465:2001

On 10 February 2018, the NZMCA Board implemented a temporary stay on the ability for NZMCA self-containment officers to certify people movers and similar small car conversions under the provisions of NZS 5465:2001. The Board's decision is effective immediately and will remain in place for up to two years, unless reviewed beforehand.

The rationale supporting the need for this decision is as follows:

1. It appears testing officers throughout the industry have developed varying interpretations of the new toilet requirements under section 6.1.1 of the revised Standard. We have been made aware of certain vehicle types continuing to be certified when they do not comply with the purpose and intent of new section 6.1.1.
2. Local authorities and communities across New Zealand continue to report the environmental effects associated with these small vehicles some of which are certified under NZS 5465:2001. As the effects increase and spread throughout their districts, local authorities are making tough decisions to prohibit all freedom campers in certain areas, which is affecting everyone.
3. It has been brought to our attention by an industry expert that the use of portable toilets in some small vehicle conversions may not comply with the requirements of the NZ Building Code, which is referenced in the Standard. We are investigating this suggestion.

This temporary decision will enable the Association time to review the above issues and minimise the opportunity for non-compliant vehicles to continue receiving self-containment certificates, prior to a permanent decision being reached.

Page 2 of this letter includes a non-exhaustive list of the type of people movers and small vehicles that will not be certified by the NZMCA under this temporary stay. Please note, if a vehicle is not registered on the list however we consider it is a people mover / small car intended to be captured by this decision, the NZMCA reserves the right to refuse certification.

Driving towards a Sustainable Future

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Non-exhaustive list of vehicle types affected by this temporary stay (Updated: 27 July 2018)

1. CHRYSLER GRAND
2. HONDA ELISION
3. HONDA ODYSSEY
4. HONDA STEP WAGON
5. ISUZU RODEO
6. KIA CARNIVAL
7. MAZDA MPV
8. MERCEDES BENZ VIANO
9. MITSUBISHI DELICA
10. MITSUBISHI RVR
11. NISSAN ELGRAND
12. NISSAN LARGO
13. NISSAN MISTRAL
14. NISSAN PRAIRE JOY
15. NISSAN PRESAGE
16. NISSAN SAFARI
17. NISSAN SERENA
18. NISSAN VANETTE
19. SUZUKI APV
20. TOYOTA ALPHARD
21. TOYOTA AMBULANCE
22. TOYOTA ESTIMA
23. TOYOTA GRANVIA
24. TOYOTA NOAH
25. TOYOTA PREVIA
26. TOYOTA QUALIS
27. TOYOTA REGIUS
28. All other people movers / small car conversions not registered on this list.

Please email selfcontainment@nzorca.org.nz with any questions.

UPDATE – Decision from 9 June 2018 – "People Mover" Re-certification

On 9 June 2018 the Board agreed to accept the re-certification of members' vehicles only captured by the temporary stay. Please note, the following criteria must be met before the National Office can accept and process a vehicle's check sheet:

1. The vehicle must have an existing self-containment certificate (as the Board's decision applies to re-checks only);
2. The vehicle must be owned by a financial NZMCA member;
3. The vehicle must meet the new requirements of NZS 5465:2001 (which should now be the case for all inspections as of 1 February 2018); and
4. The vehicle re-check must have been done by an NZMCA testing officer.