

**Before the Independent Hearings Panel
Far North District Council**

Under: the Resource Management Act 1991

In the matter of: Submissions and further submissions in relation to the proposed Far North District Plan

And: Submission 551, 585

And: **Lucklaw Farm Limited**

**Index to bundle of documents for Lucklaw Farm Ltd – coastal environment
(submission 551, 585)**

Dated: 2 August 2024

Counsel:

Stuart Ryan
Barrister
Akarana Chambers

PO Box 1296
Shortland Street
Auckland 1140
Tel +64 (9) 357 0599

Email: stuart@stuartryan.co.nz

	Date	Document	Page
Documents – Sturgess			
1.	7.11.2020	Boffa Miskell report of Dr Lee Shapiro	1
2.	May – June 2023	Various photos	10
3.	27.09.2010	NZAA archaeological sites – Lucklaw Farm (extract from LIM report)	47
4.		Puwheke Beach Eastern Side – Archaeological sites	48
5.	20.03.2020	Letter – ASL Archaeology Solutions Ltd	49
6.	July 2020	Email correspondence – Atlas Legal and Northland Regional Council	52
7.	20.08.2020	Letter – Atlas Legal to the Minister of Conservation	59
8.	08.10.2020	Letter – DoC to Atlas Legal	62
9.	28.10.2020	Email – Atlas Legal to DoC	65
10.	06.11.2020	Letter – DoC to Atlas Legal	67
11.	02.09.2021	Letter – Martelli McKegg to Minister of Conservation	69
12.	05.10.2021	Letter – Minister of Conservation to Martelli McKegg	73
13.	29.07.2020	Puwheke Car Park Barrier Minor Works Business Case	74
14.	-	FNDC Operative District Plan – Historical sites	84
15.	-	New Zealand Archaeological Association – archaeological site recording scheme	85
16.	22.03.2022	NZ Herald article – <i>FNDC social media post creates confusion over changes to new bylaw</i>	86
17.	3.05.2022	FNDC Analysis of submissions and recommendations – Provisions regulating vehicles on beaches to be in the Road Use Bylaw	87
Documents – Legal submissions			
18.	28.06.2023	<i>Bay of Islands Maritime Park Incorporated v Northland Regional Council</i> [2023] NZEnvC 133	97
19.	-	Meaning of “control” - <i>The New Oxford Dictionary of English</i> (1998, Oxford University Press)	125
20.	October 2018	NZCPS 2010 guidance note Policy 20: Vehicle access	127
21.	19.05.2022	Far North District Council Road Use Bylaw 2022	154
22.	3.12.2019	Bay of Plenty Regional Coastal Environment Plan – Disturbance, deposition and extraction (DD) chapter	181
23.		Northland Regional Council - Proposed Regional Plan for Northland – Rules C.1.5.1, C1.8	210
24.	17.12.2015	Northland Reserves Bylaws 2007	221
25.	7.03.2003	<i>Minister of Conservation v Northland Regional Council</i> ENC Auckland A032/2003, 7 March 2003	236

Memorandum

<input type="checkbox"/> Whangarei 35 Watton Street Whangarei 0110 +649 358 2526	<input checked="" type="checkbox"/> Auckland Level 3, IBM Centre 82 Wyndham Street Auckland 1010 PO Box 91250 Auckland 1142 +649 358 2526	<input type="checkbox"/> Hamilton PO Box 1094 Hamilton 3240 +647 960 0006	<input type="checkbox"/> Tauranga PO Box 13373 Tauranga 3141 +647 571 5511	<input type="checkbox"/> Wellington PO Box 11340 Wellington 6142 +644 385 9315
<input type="checkbox"/> Nelson 51 Halifax Street Nelson 7010 +643 548 8551	<input type="checkbox"/> Christchurch PO Box 110 Christchurch 8140 +643 366 8891	<input type="checkbox"/> Queenstown PO Box 1028 Queenstown 9348 +643 441 1670	<input type="checkbox"/> Dunedin 49 Water Street Dunedin 9016 +643 470 0460	

Attention:	<u>John and Andrea Sturgess</u>
Company:	<u>Lucklaw Farms</u>
Date:	<u>07/11/2022</u>
From:	<u>Dr Lee Shapiro, Dr Sarah Flynn, Tanya Cook and Matt Turner</u>
Message Ref:	<u>Puheke Beach Ecological Values</u>
Project No:	<u>BM220341A</u>

Background

John and Andrea Sturgess own Lucklaw Farm, located between Rangiputa township and Puheke Beach on Karikari Peninsula. John and Andrea Sturgess engaged Boffa Miskell Limited (BML) to undertake ecological surveys (one in June 2002 and the second in November 2022) to better understand the ecological values within their property and the adjoining Puheke Beach and the potential impact on these values resulting from continued access of vehicles to Puheke Beach.

This memo provides an overview of the ecological values at Puheke Beach identified during field surveys, and a comparison of the ecological values present with the principles that Northland Regional Council (NRC) used to guide the identification of Vehicle Exclusion Zones (VEZ) in their recently published Vehicle Exclusion Zone – mapping and methodology report (henceforth VEZ report, NRC 2022), which lists Puheke Beach as a “possible future inclusion”.

Vehicle exclusion zone – mapping and methodology report

The VEZ report (NRC 2022) sets out the relevant national and regional policy direction regarding vehicle use on beaches. Key points are as follows:

- Policy 20 of the New Zealand Coastal Policy Statement 2010 (NZCPS 2010) directs control of the use of vehicles on beaches, the foreshore, the seabed and adjacent public land where there is a risk of harm to particular values in the coastal environment.
- The relevant provisions of the Regional Policy Statement and Regional Plan for Northland adopt a similar approach to the NZCPS in the context of vehicle use on beaches. They encourage public access, use and development in the coastal environment while requiring that environmental imperatives in relation to the biodiversity, natural character and historic heritage are met.

As stated in the VEZ report (NRC 2022), this study was focused on implementing the direction of Policy 20 of the NZCPS, alongside the Regional Plan for Northland and methods outside the resource management system. The mapping project was intended to “*identify and delineate locations where vehicle use on the foreshore or seabed is likely to have undue adverse effects on the environment*”.

The principles guiding the identification of Vehicle Exclusion Zones (VEZ) by NRC and conventions around how they are mapped are included in Appendix 1, and primarily focus on Significant Ecological Areas (SEAs), and on significant habitat as per policy 11A NZCPS (NZCPS 2010), which requires that adverse

effects on threatened or at-risk species are avoided. The VEZ report (NRC 2022) placed emphasis on evidence of threatened bird species regularly using the areas and/or being present in relatively high numbers (NRC 2022).

The VEZ report (NRC 2022) states that Puheke Beach "may be a possible future inclusion" to the VEZs and that shorebirds are present. It also states that existing public vehicle access is unknown.

Puheke Beach site visits

Ecologists from BML undertook two site visits to Puheke Beach. The first site visit was a single day visit on 8 June 2002 and the second visit was three days from 2 to 4 November 2022.

Site visit June 2022

During the visit to Puheke Beach on 8 June 2022 it was noted that there is a vehicle access point onto Puheke Beach from the carpark at the eastern end of the Beach. During the site visit numerous species of native shorebirds were observed (Table 1). Shorebirds were generally observed roosting at the stream mouth halfway along Puheke Beach and this included five northern New Zealand dotterel, three caspian terns, two variable oystercatchers and a flock of approx. 25 white fronted terns and 15 red-billed gulls. The remaining species listed in Table 1 were observed either roosting, feeding or in flight along Puheke Beach.

Site visit November 2022

Shorebirds

During the visit to Puheke Beach on 2 to 4 November 2022 the same shorebird species were observed. This site visit was during the main breeding season for many of these species and provided an opportunity to observe whether any of these species are nesting on Puheke Beach. It was also noted that there was still a vehicle access point onto Puheke Beach from the carpark at the eastern end of the Beach.

Two pairs of northern New Zealand dotterel were observed during shorebird surveys along the western end of the beach (Photo 1) and around the river mouth (Photo 2). Both pairs were observed displaying defensive behaviours typical of dotterels defending breeding territories. A scrape (dotterel nest) containing three eggs was located in the duneland on the western end of the beach, approximately 80 m from the high tide mark (Photo 3 and 4 and Map 1) and notably this nest is immediately adjacent to an area where motorbike tracks were visible (Photo 3). The pair of New Zealand dotterel were observed in close proximity to the nest and one of the pair was later observed at the nest incubating the eggs.

The second pair of northern New Zealand dotterel were observed near the river mouth and a potential scrape/nest was observed close by which consisted of a depression in the sand with northern New Zealand dotterel footprints leading to the center of the scrape (Photo 5). Additionally, a dotterel eggshell fragment was found between the western end of the beach and the river mouth (Photo 6).

Three Caspian terns (Photo 7) and a flock of approximately 30 white-fronted tern (Photo 8) were observed roosting around the river mouth. Additionally, white-fronted terns were often seen flying along the western stretch of Puheke Beach in groups of up to five individuals. New Zealand pipit, variable oystercatchers, red-billed gull and black-backed gull were frequently observed both in flight, feeding and roosting along the length of the beach. New Zealand pipits were primarily observed along the edges and within the dunelands (Photo 9). Red-billed and black-backed gulls were the most abundant of all shorebird species, commonly observed roosting and feeding around the tidal zones and river mouth in groups of approx. 15 individuals. Five variable oystercatchers (two pairs and an individual) were observed foraging along the length of Puheke beach (Photo 10).

Multiple Australasian harriers and pied shag were observed flying between the dune lakes / farmland and the coastal waters. A single Australasian gannet was spotted flying parallel to the beach over open water.



Photo 1: Northern New Zealand dotterel pair observed foraging along the western end of the beach below the nest site.



Photo 2: One of the northern New Zealand dotterel pair observed by the river mouth.



Photo 3: Northern New Zealand dotterel nest located on the ridgeline at the center of the photograph and motorbike tracks immediately adjacent to the nest.



Photo 4: Three northern New Zealand dotterel eggs located in a nest.



Photo 5: Potential northern New Zealand dotterel nest with dip in sand where a bird has been sat and surrounding footprints leading to the center of the nest.



Photo 6: Northern New Zealand dotterel egg shell fragment.



Photo 7: Caspian tern taking off after being startled from roosting location by river mouth.



Photo 8: Group of white-fronted tern roosting by rivermouth.



Photo 9: Pipit along the duneland margin.



Photo 10: Variable oystercatcher foraging in the tidal zone.

Table 1: Shorebird species observed on Puheke beach.

Species Name	Common Name	Threat Classification (Robertson et al., 2021)
<i>Hydroprogne caspia</i>	Casplan tern	Threatened – Nationally Vulnerable
<i>Charadrius obscurus aquilonius</i>	Northern New Zealand dotterel	Threatened – Nationally Increasing
<i>Larus novaehollandiae scopulinus</i>	Red-billed gull	At Risk - Declining
<i>Sterna striata striata</i>	White-fronted tern	At Risk - Declining
<i>Anthus novaeseelandiae novaeseelandiae</i>	Pipit	At Risk - Declining
<i>Haematopus unicolor</i>	Variable oystercatcher	At Risk - Recovering
<i>Phalacrocorax varius varius</i>	Pied shag	At Risk - Recovering
<i>Circus approximans</i>	Australasian harrier	Not Threatened
<i>Larus dominicanus</i>	Black-backed gull	Not Threatened
<i>Morus serrator</i>	Australasian gannet	Not Threatened

Native lizards

Three shore skinks (*Oligosoma smithi*), classified as At Risk – Declining (Hitchmough et al. 2021), were observed sheltering under driftwood at three separate locations along the Puheke Beach (Map 1). Notably, one of the shore skinks was located under a piece of driftwood that was immediately adjacent to the existing vehicle entrance to Puheke Beach at the western end of the beach below the carpark (Map 1).

Native vegetation

A range of native dune plant species, classified as either At Risk – Declining or At Risk – Naturally Uncommon (de Lange et al. 2017), were observed within the dune system along the length Puheke Beach (Map 1). These plant species included pingao (*Ficinia spiralis*), sand daphne (*Pimelea villosa*), sand coprosma (*Coprosma acerosa*) and manuka (*Leptospermum scoparium*) – all classified as At Risk – Declining and native spinach (*Tetragonia tetragonoides*) – classified as At Risk – Naturally Uncommon.

The foredune along Puheke Beach is dominated by Spinifex (*Spinifex sericeus*), with a mix of the above At-Risk species as well as a few other native species e.g., small-leaved pōhuehue (*Muehlenbeckia complexa* var. *complexa*) and shore bindweed (*Calystegia soldanella*).

The dune slack has areas of knobby club rush (*Ficinia nodosa*) and oioi (*Apodasmia similis*) surrounded by sand daphne, sand coprosma, tauhinu (*Ozothamnus leptophyllus*), spinifex, pingao and toetoe. The back of the rear dune is dominated by pōhuehue and bracken, with flax, pohutukawa, native spinach, manuka, toetoe, knobby club rush and sand coprosma.

In the areas of dunes where vehicles have not been driving, the native vegetation communities are relatively intact (Photo 11), however, the negative impacts from vehicles driving through areas of the dunes was apparent with areas of flattened and dead plants observed (Photos 12 and 13).



Photo 11. Intact native vegetation community in an area not currently accessed by vehicles on Puheke Beach.



Photo 12. Damaged native vegetation typical of areas currently accessed by vehicles on Puheke Beach.



Photo 13. Typical disturbance of native vegetation and fauna breeding areas currently accessed by vehicles on Puheke Beach.

Ecological values of Puheke Beach and inclusion within the VEZ mapping

The site surveys of Puheke Beach by BML have confirmed the Very High ecological values present. Puheke Beach provides habitat that supports a range of indigenous taxa that are listed as Threatened or At Risk in the New Zealand Classification system lists (Robertson et al. 2021; Hitchmough et al. 2021), namely feeding and roosting habitat for At-Risk and Threatened shorebird species and breeding habitat for at least one Threatened species of shorebird, northern New Zealand dotterel, as well as habitat for shore skink which are classified as At Risk – Declining (Hitchmough et al. 2021) and at least five species of native plants classified as either At Risk – Declining or At-Risk Naturally Uncommon (de Lange et al. 2021).

The NZCPS Policy 11A (2010) focuses on the protection of indigenous biological diversity in the coastal environment, the relevant sections of Policy 11A relevant to Puheke Beach are as follows:

- a. avoid adverse effects of activities on:
 - i. indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists.
 - ii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare.

The principles that guided the identification of VEZs (NRC 2022) included assessing areas outside of SEAs with a focus on the NZCPS Policy 11A (2010) as outlined above. Puheke Beach contains dune systems which are in good condition relative to other coastal habitats, however, these dunes systems are a sensitive environment and continued vehicle access will easily degrade these values and the habitat value they provide to the At Risk and Threatened indigenous flora and fauna recorded at Puheke Beach.

Based on the Very High ecological values present at Puheke Beach and the current vehicle access that threatens these values, it is our opinion that Puheke Beach should be added to the VEZ being proposed by NRC (2022) to ensure that the adverse effects on these ecological values resulting from current vehicle access are avoided as instructed by the NZCPS (2010).

References

de Lange, P.J.; Rolfe, J.R.; Champion, P.D.; Courtney, S.P.; Heenan, P.B.; Barkla, J.W.; Cameron, E.K.; Norton, D.A.; Hitchmough, R.A. 2013: Conservation status of New Zealand indigenous vascular plants, 2012. *New Zealand Threat Classification Series 3*. Department of Conservation, Wellington. 70 p.

Department of Conservation 2010. *New Zealand Coastal Policy Statement*. p 30.

Hitchmough, R.A.; Barr, B.; Knox, C.; Lettink, M.; Monks, J.M.; Patterson, G.B.; Reardon, J.T.; van Winkel, D.; Rolfe, J.; Michel, P. 2021: Conservation status of New Zealand reptiles, 2021. *New Zealand Threat Classification Series 35*. Department of Conservation, Wellington. 15 p.

Northland Regional Council 2022. *Vehicle exclusion zone – mapping methodology report*. p23.

Appendix 1

Principles for identifying Vehicle Exclusion Zones (NRC 2022)

- This mapping only applies to of the strip from mean high-water springs to 50m seaward of MHWS. The power to regulate vehicles comes from section 12, RMA which is limited to the coastal marine area (seaward of MHWS).
- Only map Vehicle Exclusion Zones where significant values are at risk of harm by vehicle use.
- Significant Ecological Areas (SEAs) mapped in the Proposed Regional Plan will be incorporated as Vehicle Exclusion Zones, where the values of the Significant Ecological Area could be impacted by vehicle use. Significant Ecological Areas include:
 - a) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System⁶; and
 - b) areas of indigenous vegetation and habitats of indigenous fauna, that are significant using the assessment criteria in Appendix 5 of the Regional Policy Statement for Northland; and
 - c) areas set aside for full or partial protection of indigenous biodiversity under other legislation.
- Outside Significant Ecological Areas there was a focus on significant habitat of 11A NZCPS which directs those adverse effects on threatened or at-risk species are avoided.
- Mapping outside the SEAs largely focused on shorebirds and wading birds. Table A below lists threatened NZ bird species that use the coastal areas referred to in the VEZ Assessment methodology.
- Place holder for SBA critical habitat if council and the parties agree on its inclusion in this methodology.
- The assessment focuses on where there is evidence of threatened bird species regularly using the areas and/or are in relatively high numbers, for example, the nationally critical NZ fairy tern habitat is included, as are NZ dotterel, variable oystercatcher and bar-tailed godwit (Whangārei Harbour and Ruakaka Estuary) where there are records detailing bird numbers and their breeding. In contrast, threatened species such as pied shag, which may roost on the shoreline, but aren't breeding or feeding extensively in vehicle access areas, were not assessed in detail.
- Some of the sites included for the shorebirds, such as NZ dotterel and variable oystercatcher would also cover other shorebirds present, as well as habitat covered by the Regional Plan SBA – critical habitat rules. It is also of note that many sites were covered by SEA provisions (as per VEZ Mapping principles).
- Outside Significant Ecological Areas important shellfish beds have been considered where there is evidence.



































































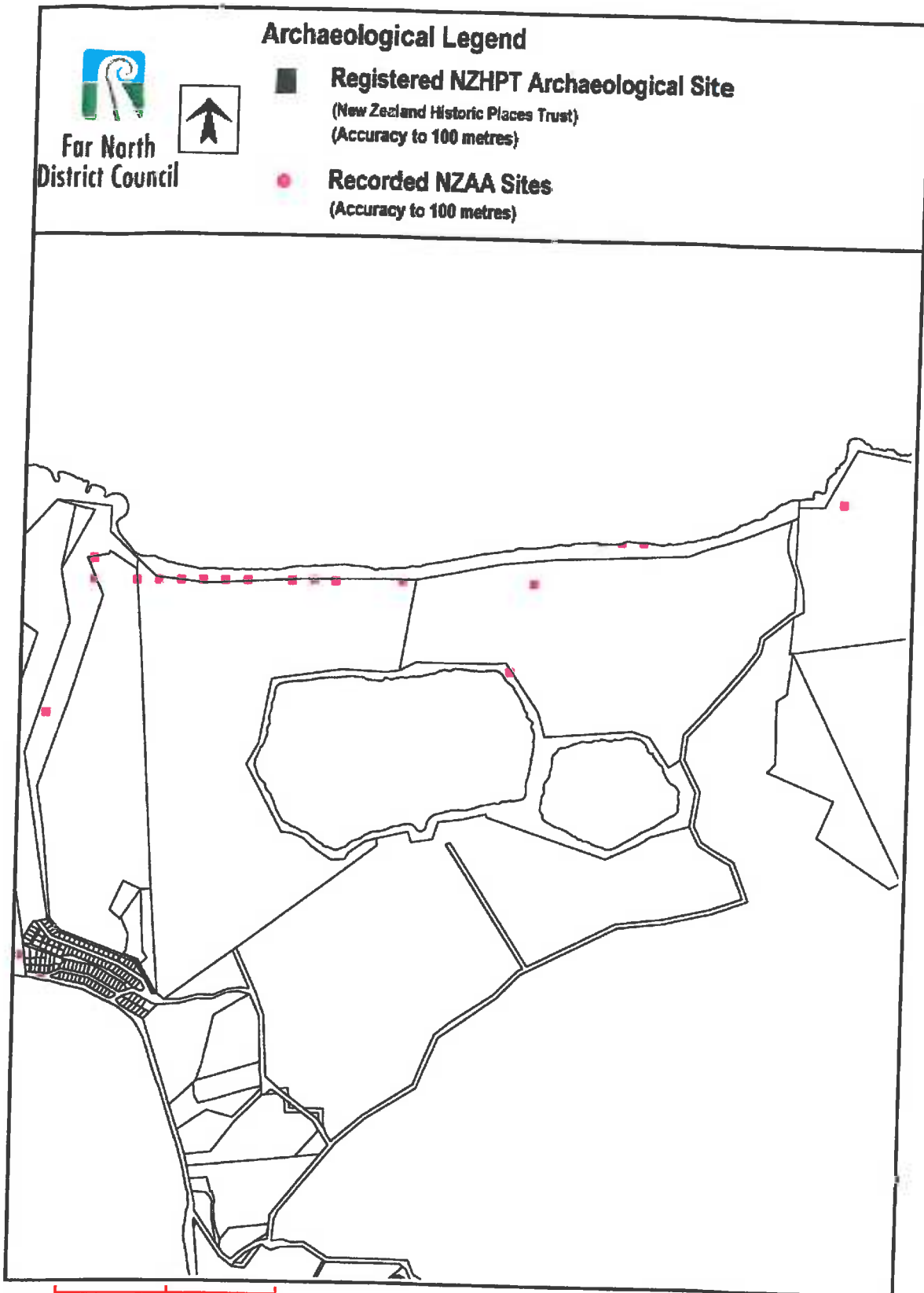








8



1 km  1 : 25000

This map has been provided in good faith and for information purposes only. The Far North District Council is not liable for any errors or omissions. Any persons considering purchasing property are advised to have all boundaries confirmed by a licensed Cadastral Surveyor.

Produced by the Far North District Council
16:10 9/27/2010

Copyright © 2006
Far North District Council

Search



003/239



003/237



003/238

003/240



003/241



unlocking the past

ASL Archaeology Solutions Ltd, PO Box 48134, Blockhouse Bay, Auckland 0644

Phone/Fax: 09 6267860

Email: info@archaeologysolutions.co.nz

Web: www.archaeologysolutions.co.nz

30. March 2020

Lucklaw Farm
690 Rangiputa Rd,
Karikari
Attn.: John & Andrea Sturgess

House and Shed platforms

The author has undertaken an archaeological site visit and survey of the property in Karikari on 23rd / 24th January 2020.

A number of archaeological sites were recorded previously on the property or on the coastal zone right next to the property.

The recorded sites were re-visited and a survey over the accessible areas of the property were undertaken (see Fig. 1). A number of the recorded sites could not be relocated and most of the recorded sites were further damaged since the records started. The damage has occurred on the sites along the beach by off road traffic.

The area of the houses and shed did not show any archaeological sites (see Fig. 2). The closest recorded archaeological site is on the neighbouring property and has not been visited.

It is recommended to continue with the development as planned.

Kind regards,

Dr. Hans-Dieter Bader



unlocking the past



Figure 1: All relocated, previously recorded sites on or close to the property.



unlocking the past



Figure 2: Area around the houses and shed that has been surveyed in detail. No archaeological features were found.

From: Jo Baguley jo@atlaslegal.co.nz
Subject: FW: Sand-dune works at Puheke Beach, Karikari
Date: 6 July 2020 at 8:54 AM
To: John Sturgess john@lucklaw.co.nz, Jeff Kemp Jeff@bayplan.co.nz, Rochelle Jacobs Rochelle@bayplan.co.nz, Sharon Greig sharon@atlaslegal.co.nz

JB

From: Colin Dall <colind@nrc.govt.nz>
Sent: Saturday, 4 July 2020 11:36 AM
To: Jo Baguley <jo@atlaslegal.co.nz>
Cc: Sharon Greig <sharon@atlaslegal.co.nz>; Pat Killalea <pat.killalea@fndc.govt.nz>; Louise Wilson <Louise.Wilson@fndc.govt.nz>; Ali McHugh <alim@nrc.govt.nz>
Subject: RE: Sand-dune works at Puheke Beach, Karikari

Morning Jo

The works do not have a resource consent issued by the Northland Regional Council. However, the Department of Conservation notified the Northland Regional Council of works it was undertaking in the area in late June, which involved placing large boulders across the landward entrance of tracks onto and over the dune, leaving one access track down to the beach. The works were being undertaken to reduce damage to the dunes that had been caused previously as a result of uncontrolled access onto the dunes. Boulders were chosen over a fence as they are harder to move/damage.

A Council officer inspected the site on 26 June and took the following photograph:



001



The only excavation works that the officer saw were digging the boulders in slightly so that they would be harder to move.

Rule C.8.3.1 of the Proposed Regional Plan ("the PRP") permits earthworks up to an area of 5,000 m² of exposed earth at any time, except where it is located within the coastal riparian and foredune management area (land within 10 m of the coastal marine area or at the base of the landward side of the foredune), or on erosion prone land. As the site is located on Class 8e1 erosion prone land, the amount of exposed earth permitted by the Rule C.8.3.1 is 2,500 m². The Council will be re-inspecting the site to confirm that the works comply with the relevant conditions of Rule C.8.3.1.

Ngā mihi

Colin Dall
Group Manager Regulatory Services
DDI 09 470 1109
M 021 222 1890



Disclaimer

Users are reminded that Northland Regional Council data is provided in good faith and is valid at the date of publication. However, data may change as additional information becomes available. For this reason, information provided here is intended for short-term use only. Users are advised to check figures are still valid for any future projects and should carefully consider the accuracy/quality of information provided before using it for decisions that concern personal or public safety. Similar caution should be applied for the conduct of business that involves monetary or operational consequences. The Northland Regional Council, its employees and external suppliers of data, while providing this information in good faith, accept no responsibility for any loss, damage, injury in value to any person, service or otherwise resulting from its use. All data provided is in NZ

Standard Time. During daylight saving, data is one hour behind NZ Daylight Time.

From: Jo Baguley <jo@atlaslegal.co.nz>
Sent: Wednesday, 1 July 2020 5:19 PM
To: Colin Dall <colind@nrc.govt.nz>; Pat Killalea <pat.killalea@fndc.govt.nz>; Louise Wilson <Louise.Wilson@fndc.govt.nz>
Cc: Sharon Greig <sharon@atlaslegal.co.nz>
Subject: Sand-dune works at Puheke beach, Karikari
Importance: High

Hi Colin and Louise,

I have been instructed by Lucklaw Farms Limited, the landowner adjacent to Puheke Beach on the Karikari peninsula. My client has observed dune excavation works being carried out by contractors engaged by the Director-General of Conservation.

Can you please advise if NRC and/or FNDC has issued resource consent for dune-works and provide a copy of any consents.

Our client is eager to establish whether these works are legal. If they are not, our client will want enforcement action to be taken immediately.

Please treat this request as urgent.

Kind regards

JO BAGULEY
Director/Lawyer



ATLAS LEGAL

P: (09) 401 6537

M: (027) 245 8144

www.atlaslegal.co.nz

This email is a confidential communication between Atlas Legal Limited and its intended recipient(s). If you have received it in error, please notify us by return email and delete this email.

From: Jo Baguley <jo@atlaslegal.co.nz>
Subject: Fwd: Puwheke Works
Date: 31 July 2020 at 5:09 PM
To: John Sturgess john@lucklaw.co.nz

JB

[Get Outlook for iOS](#)

From: Jo Baguley <jo@atlaslegal.co.nz>
Sent: Thursday, July 30, 2020 6:30:45 PM
To: Colin Dall <colind@nrc.govt.nz>
Subject: Re: Puwheke Works

Thanks Colin

[Get Outlook for iOS](#)

From: Colin Dall <colind@nrc.govt.nz>
Sent: Thursday, July 30, 2020 6:28:30 PM
To: Jo Baguley <jo@atlaslegal.co.nz>
Subject: Puwheke Works

Dear Jo

In addition to the response I have already provided to your "other questions" in your e-mail of 23 July 2020 (included below), my comments on your first question, which I provide on a without prejudice basis and noting that I have not personally visited the site, are:

For the sake of clarity, Rules 33.1.3 and 34.1.3 of the Regional Water and Soil Plan for Northland ("the RWSP") also need to be considered when assessing consent requirements/the lawfulness of the works. However, I believe the works easily meet the conditions of Rule 33.1.3 and so I do not give this rule further consideration.

The surface area disturbance threshold for Rule 34.1.3 of the RWSP and Rule C.8.3.1 of the Proposed Regional Plan ("the PRP") are almost the same (<200 m² compared with 200 m²). I consider the slight difference in the thresholds to be immaterial in relation to this matter. Rule 34.1.3 also includes a volume threshold for earthworks of 50 m³, but in other respects Rule C8.3.1 has similar or more restrictive conditions/limits.

I believe that in regard to the works, compliance with the relevant permitted activity regional plan rules hinges on the following key 'considerations':

1. Can the works reasonably be considered to be for the purpose of "coastal dune restoration"? If so, then do they comply with Rule C.8.4.1 of the PRP?
2. The location of the landward boundary/bottom of the foredune (to determine the landward boundary of the "coastal hazard management area") and, if any or all the works are in the coastal hazard management area, did they result in more than 200 m² of exposed earth at any one time?

Consideration 1

I did not touch on this matter in any detail in my e-mail of 4 July 2020, although I did note in that e-mail that "*The works were being undertaken to reduce damage to the dunes that had been caused previously as a result of uncontrolled access onto the dunes*".

Critically, the threshold for earthworks in the coastal hazard management area imposed by Rule C.8.3.1 does not apply to earthworks for coastal dune restoration. The purpose of the works are to protect the foredune and facilitate dune restoration, which has been substantiated in recent media releases about the works. It could reasonably be argued that the works are a component of coastal dune restoration programme and therefore the applicable regional plan rule then becomes Rule C.8.4.1. On the other hand, I note the definition of coastal dune restoration contained in the PRP excludes "works involving hard protection structures". However, I don't believe that the rocks that have been placed at the site are "hard protection structures" because the PRP defines hard protection structures as:

A seawall, rock revetment, groyne, breakwater, stopbank, retaining wall or comparable structure that has the primary purpose of protecting an activity from a coastal hazard, including erosion.

I have seen no evidence that would indicate to me that the works breach Rule C.8.4.1. If it is accepted that the earthworks are a component of coastal dune restoration programme, then the location of the landward boundary (bottom) of the foredune becomes immaterial in regard to whether or not the works comply with the PRP. Nevertheless, my response to your client's view on the boundary of the foredune in the vicinity of the works immediately below.

Consideration 2

From the photographs of the of works that I've seen and aerial photographs of the surrounding area, the landward line/boundary of the bottom of the foredune in the vicinity of where the works were undertaken is not obvious/clear-cut. In my opinion, from a practical viewpoint, it would be reasonable to deem that the seaward edge of the existing track that runs parallel to the dune (see attached oblique aerial photograph) is the landward boundary/bottom of the foredune. Even if some of the rocks that have been placed at the seaward edge of that track encroach into (slightly above the bottom of) the foredune, the Northland Regional Council does not have sufficient evidence that the placement of those rocks resulted in more the 200 m² of exposed earth at any one time.

I note that the matters you raised in your e-mail earlier today fall outside of the scope of (are not controlled by) the Regional Coastal Plan for Northland, the RWSP or the PRP. Access over/across marginal strips and reserve land does not fall under the jurisdiction the Northland Regional Council. Your client's concerns about shellfish overharvesting should be directed to the Ministry of Primary Industries, which administers the Fisheries Act 1996.

Ngā mihi

Colin Dall

Group Manager Regulatory Services

DDI 09 470 1109

M 021 222 1890

Northland 

Disclaimer

Users are reminded that Northland Regional Council data is provided in good faith and is valid at the date of publication. However, data may change as additional information becomes available. For this reason, information provided here is intended for short-term use only. Users are advised

to check figures are still valid for any future projects and should carefully consider the accuracy/quality of information provided before using it for decisions that concern personal or public safety. Similar caution should be applied for the conduct of business that involves monetary or operational consequences. The Northland Regional Council, its employees and external suppliers of data, while providing this information in good faith, accept no responsibility for any loss, damage, injury in value to any person, service or otherwise resulting from its use. All data provided is in NZ

Standard Time. During daylight saving, data is one hour behind NZ Daylight Time.

From: Jo Baguley <jo@atlaslegal.co.nz>
Sent: Thursday, 23 July 2020 5:09 PM
To: Colin Dall <colind@nrc.govt.nz>
Subject: Puwheke works
Importance: High

Hi Colin,

Thanks for your voicemail messages.

So, as I understand it, NRC believes there is no provable breach of the rule because it is difficult to be precise about the boundary of the foredune area? My client has formed a view which he has set out on the attached photograph. I would be interested in your comment on this.

My other questions were:

-is the rule operative (beyond appeal)?

-the area is within marginal strip – does that make a difference to NRC's view on the need for a consent?

Kind regards

JO BAGULEY
Director/Lawyer



ATLAS LEGAL

P: (09) 401 6537

M: (027) 245 8144

www.atlaslegal.co.nz

This email is a confidential communication between Atlas Legal Limited and its intended recipient(s). If you have received it in error, please notify us by return email and delete this email.

20 August 2020

ATLAS LEGAL

Barrister & Solicitor

Ministry of Conservation
P O Box 10420
WELLINGTON 6143
Attn: Director-General
By email: enquiries@doc.govt.nz

PUWHEKE BEACH, KARIKARI PENINSULA: BREACH OF MARGINAL STRIP -LAND ACT 1948

1. We act for Lucklaw Farm Limited ("*Lucklaw Farm*"), which owns a property at 690 Rangiputa Road on the Karikari Peninsula in the Far North District.
2. The farm property adjoins a marginal strip along Puwheke Beach and is in two titles:
 - a. ID3287842: NA602/193 comprising 1,266,666m², Sec 3, Blk 111 Karikari Survey District ("*western end of Puwheke beach*");
 - b. ID3059117: NA1616/52 comprising 1,104,792 m², Sec 4, Block 111, Karikari Survey District ("*eastern end of Puwheke Beach*").
3. We attach the title documents for the farm property which indicates the extent of the marginal strip.
4. Puwheke beach is classified as being an Outstanding Landscape in applicable planning instruments. It is also a habitat for threatened rare plant species including sand daphne and sand coprosma. The beach is an important breeding ground for dotterel and tuatua.
5. Our client has observed recent dune works being carried out by contractors to the Department of Conservation to form a carpark and road at the eastern end of Puwheke Beach. By creating road access to the beach, the works contravene the conservation purposes of the marginal strip and must be rectified by the Department of Conservation immediately. The purpose of this letter is to put you on notice of our client's intentions to issue judicial review proceedings against the Department of Conservation in relation to its decision to create road access to the beach and requiring it to complete rectification works. Before doing so, we would like to see if the matter can be resolved between the parties directly.



PO Box 144, Yerikeri, 0230 | p: [REDACTED] | m: [REDACTED] | e: [REDACTED]@atlaslegal.co.nz | w: atlaslegal.co.nz

008

6. We set out below our understanding of:
- a. the nature of the marginal strip and road reserve and their respective areal extents;
 - b. the location and nature of the dune works that have been undertaken in breach of the marginal strip instrument and s24C of the Conservation Act 1987;
 - c. the serious adverse environmental effects and adjacent property damage caused by the creation of illegal road access to Puwheke beach.

The nature and extent of the marginal strip and road reserve

7. In 1916, on title NA 1616/52 (eastern end of Puwheke Beach) a marginal strip was transferred to Her Majesty the Queen under s122 of the Land Act 1908, this was registered and transfer as an interest on the title in 1969 (title ref A376318) under the Land Act 1948. Another part of this title was proclaimed as road and registered on the title in 1971 (Title ref A601373).
8. The road reserve terminates at the base of Mount Puwheke. We attach documentary evidence showing where the road reserve stops.
9. The far western end of the beach also had part of the title proclaimed as road in 1963. However, this area is not included in the current concerns because it does not adjoin Lucklaw Farm and the road access is at the eastern end of the beach.
10. The marginal strip was vested in the Crown for conservation purposes and, as such, is now subject to statutory management regime provided for in Part 4A of the Conservation Act 1987. The Puwheke marginal strip is held under s24C of the Act primarily for conservation purposes. Public access under s24C(b) is subordinate to the conservation purposes of the marginal strip. In this case, we believe that vehicular access is inconsistent with the conservation purposes of s24C(a) of the Act.
11. Enabling vehicular access to the beach is also contrary to the Minister's own national directives under the New Zealand Coastal Policy Statement in relation to vehicle access to beaches and coastal preservation.

Location and extent of the illegal dune works

12. The Director-General (through its Northern regional department) is the current appointed manager of the marginal strip and, in that capacity, has authorised and undertaken works to form a carpark and road access to Puwheke beach beyond the legal road reserve and within the dune area within marginal strip.
13. Prior to the current works, the manager of the marginal strip had placed large concrete blocks across which blocked access to the beach. These have now been removed and road access has been put in to specifically direct vehicle access onto the beach.
14. We attach photographic evidence and maps indicating where the works have been undertaken in the marginal strip area.

Serious adverse environmental effects caused by illegal works

15. Our client has observed serious adverse environmental effects and damage to the wildlife, dunes and beach by vehicular access on a regular basis. These include, but are not limited to:
 - a. Destruction of dune area (photographs attached);
 - b. Destruction of dotterel breeding sites and deaths of dotterel chicks;
 - c. Destruction of tuatua beds (our client has engaged an ecologist to prepare a report on this);
 - d. Human effluent being left on the beach and in the dunes;
 - e. Fires on the beach and partygoers drinking alcohol and littering the beach areas.

16. Our client has also suffered property damage including, but not limited to loss of productive farmland because the dunes have become mobile and are moving inland, caused by vegetation cover loss and as a result of destruction from vehicle wheels.

Grounds for judicial review action

17. We are aware that other beach access to less outstanding marginal strips across the peninsula have been closed to vehicles because of similar environmental concerns. This has placed additional pressure on Pūwheke as it is now one of the primary beaches used for vehicular access on the peninsula.

18. We consider that the decision to enable and encourage vehicle access across the Puheke Marginal Strip and onto the beach is patently unreasonable/illegal and would be overturned in a judicial review action. These decisions and actions are a clear breach of the statutory requirements under the Conservation Act 1987.

19. Due to the upcoming summer season and significantly increased seasonal visitors to the peninsula, urgent action is required to prevent significant further environmental damage.

20. We require a response to this letter by 5pm 27 August 2020. If no adequate response is received, we are instructed to take further action, including the issuing of proceedings.

Yours faithfully
ATLAS LEGAL LIMITED



Director

8th October 2020

Atlas Legal
PO Box 144
KERIKERI 0230

Response from Department of Conservation regarding Puwheke Beach Karikari Peninsula - Breach of Marginal Strip correspondence

Dear [REDACTED]

1. The Department of Conservation (DOC) was asked by the Minister of Conservation to reply to your correspondence to the Minister dated 20th August 2020. In particular DOC was asked to address the concerns raised by your client and provide you with a comprehensive response regarding the context relative, what actions are being undertaken to reinstate the marginal strip, an outline of the work intended with other agencies and the work associated to gain public buy in.

Historical Context

2. Thank you for your letter and the provision of maps, photos and historical context of the establishment of the road, marginal strip and adjoining lands.
3. This information also underpins the fact that vehicle use on Puwheke beach has a long history. Prior to the establishment of DOC in 1987 the road end at Puwheke Road had an established car park which many used to access the beach in their vehicles. Please see attached map listed as appendix 1.

The Legislation Applicable

4. As you have outlined in your correspondence the primary legislation applicable to the matters you have raised is within the Conservation Act 1987, Part 4A management of the marginal strip and the New Zealand Coastal Policy statement.
5. The strategy for the work of the local District Office is set out by the Conservation Act 1987, Part 3A, 17D Conservation Management Strategies. The current strategy is the Northland Conservation Management Strategy 2014-2024: <https://www.doc.govt.nz/about-us/our-policies-and-plans/statutory-plans/statutory-plan-publications/conservation-management-strategies/northland/>
6. Within this strategy Puwheke is captured in the places section Part 2, Section 7. DOC is directed to fulfil the following policies:
7.2.2.5 Work with tangata whenua, councils, other agencies, four-wheel drive clubs and the community to promote initiatives designed to reduce the impacts of vehicles on beaches, including:
 - a) *supporting the establishment of coast care groups in conjunction with Northland Regional Council to protect tūturiwhatu/New Zealand dotterels and encourage revegetation of dune systems; and*
 - b) *advocating for bylaws to limit speed and provide for defined access points, and the adoption of voluntary codes of practice for responsible beach use via district plans;*
 - c) *raising awareness of natural, recreation and historic values, to achieve the outcomes of the New Zealand Coastal Policy Statement 20106F.*



7.2.2.13 Advocate for responsible land use activities that do not adversely affect the natural environments and ecosystems of Parengarenga and Rangaunu harbours and the Karikari Peninsula, their catchments and dune lakes, in collaboration with iwi, relevant stakeholders, the Northland Fish and Game Council and Northland Regional Council.

7. Whilst the concerns raised relate to DOC's actions on the marginal strip are acknowledge, another theme is what recreation activities, people believe are appropriate in coastal environments; the primary issue is people in vehicles driving on the beach.
8. Also the coastal environment is subject to Marine and Coastal Area (Takutai Moana) Act 2011 [http://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213131.html?search=ts_act%40bill%40regulation%40deemedreg_Marine+and+Coastal+Area+\(Takutai+Moana\)+Act+2011_resele_25_a&g=1#DLM3213301](http://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213131.html?search=ts_act%40bill%40regulation%40deemedreg_Marine+and+Coastal+Area+(Takutai+Moana)+Act+2011_resele_25_a&g=1#DLM3213301) which DOC must take into account also as part of their considerations when administering marginal strips and coastal areas.

The Challenge

9. Vehicle access to beaches in New Zealand is a contentious issue. Your concerns regarding vehicle use and access focus on Puwheke beach on and across the marginal strip which had a formed road and carpark prior to the establishment of DOC in 1987. In saying that there are commonalities with other beaches up and down the country. It is an issue in all parts of the country and in Northland there is little control over it.
10. Visitors and vehicle use have in recent years increased as populations and visitor numbers have grown. Limitations on activities elsewhere, especially vehicle access to beaches, has amplified this. Taking a vehicle onto a beach is seen as a right by many people, including many in Northland, and therefore is difficult to combat. A variety of tools to discourage inappropriate vehicle is needed including changing people's perceptions of their rights and the need to protect the environment. Our experience has been that it is not uncommon for people to remove, burn or destroy physical barriers, not matter how sturdy.
11. You have asserted that DOC has enabled and encouraged vehicle use on Puwheke Beach. DOC's understanding is that vehicle beach access to Puwheke Beach existed pre the establishment of DOC. DOC's actions over time have been to co-ordinate its efforts alongside mandated organisations to assist in shifting public buy-in to use the area responsibly and in alignment with legislative and policy guidance.
12. I understand that during the COVID-19 lockdown the use of this site increased due to it being a less populated site which enabled people to undertake activities that were inappropriate.
13. DOC's response to this was to put in place rock sprawls that blocked vehicle access off during COVID-19 alert level 4 and 3. At the time there was a level of acceptance by the public to willingly comply.
14. When the COVID-19 alert levels reduced to 2 and 1 public willingness to comply diminished. Therefore the rock sprawls were repositioned and plantings were put in place in July 2020 as a measure to limit the multiple vehicle access points to the beach and direct those intent on taking their vehicles onto the beach through one access point on the Puwheke recreation reserve below Mt Puwheke. DOC has not promoted vehicle access to the beach or vehicle use on the marginal strip by doing this but has put measures in place to limit the activity and to try to control the effects while further strategies are investigated. It is very difficult to stop people who are determined to take their vehicles to access the beach.



The work going forward

15. There are two challenges DOC will be focused on in the future to address current reality:
 - a. Removal of the carpark and road from the marginal strip.
 - b. Getting buy-in and collaboration with agencies who have mandate for the beach area, community and Iwi/hapū.

16. Removal of the carpark and road from the marginal strip will take time, resource and cooperation. DOC will work with the District council, community and Iwi/hapū to scope and design what the options will be considered and agreed to implement. We also are in the pursuit of protection of the coastal environment and conservation values, whilst enabling appropriate access to the beach. This will include investigating the provision of measures appropriate for Pūwheke Beach such as bylaws, provisions in regional and district plans which will require the leadership of councils and the Department.

17. Communication with various agencies, community and Iwi/hapū has been ongoing. The intent is to work with all interested parties to collaborate in securing appropriate management tools to achieve the outcomes of the Conservation Management Strategy.

18. I also note that anyone using a vehicle wherever it is, including a beach, must obey the law, drive safely and avoid behaviour that puts themselves and others at risk. As a deterrent I encourage you to take photos of vehicles being misused and forward those to the Police.

19. I encourage you to discuss further your thoughts and concerns directly with the Operations Manager at site Meirene Hardy-Birch.

Yours sincerely,

PP: Abraham Witana,
Acting Operations Manager.

Meirene Hardy-Birch
Operations Manager,
Kaitiāia Area District Office

From: [Meirene Hardy-Birch](#)
To: [Anwyn Buchanan](#)
Subject: FW: DOC response to 28.10.20 email PUWHEKE BEACH: Urgent action required to save the dune ecosystem and waahi tapu sites
Date: Wednesday, 27 January 2021 2:45:42 pm
Attachments: [Atlas Legal, Puhwheke Marginal Strip, Response to 28.10.20 email, 6.11.2020 - DOC-6485603.pdf](#)
[image001.png](#)

From: Meirene Hardy-Birch
Sent: Friday, 6 November 2020 7:08 p.m.
To: [REDACTED]; Abraham Witana <awitana@doc.govt.nz>
Cc: Jenny McLeish <jmcleish@doc.govt.nz>
Subject: DOC response to 28.10.20 email PUWHEKE BEACH: Urgent action required to save the dune ecosystem and waahi tapu sites

Kia ora [REDACTED]

Apologies for not getting back to you sooner, however please find attached my response to your email.

Kind regards
Meirene Hardy-Birch
Operations Manager – Kaitaia District

From: [REDACTED]
Sent: Wednesday, 28 October 2020 5:38 p.m.
To: Abraham Witana <awitana@doc.govt.nz>
Cc: Meirene Hardy-Birch <mhardy-birch@doc.govt.nz>; Jenny McLeish <jmcleish@doc.govt.nz>
Subject: PUWHEKE BEACH: Urgent action required to save the dune ecosystem and waahi tapu sites

Kia ora Abraham,

In our conversation last week we asked you whether DOC had any other tools to prevent the all-terrain and motocross vehicles from destroying the dune systems/ archaeological sites / native species/ waahi tapu sites. We asked whether clear signage conveying that driving on the dunes was forbidden was possible; whether a fine or infringement notice was available; whether camera monitoring vehicles entering the carpark could stop offending; whether the vehicle accessway onto the beach could be removed. In addition to the dune protection our client has also raised other concerns regarding the illegal placement of the Carpark and the illegal creation of a vehicle access road from the carpark to the beach which appears to have unwittingly facilitated those who feel they are entitled to abuse the Puhwheke dunes.

We also asked whether stronger measures could be introduced before the summer holiday season. We have asked Ngati Kahu if they would join us in a discussion with you about the problem. We directly emailed Haititaimarangai Marae and Karikari Marae - [REDACTED] [REDACTED]

[REDACTED] earlier this week. [REDACTED] referred us to [REDACTED] and [REDACTED]. We are yet to hear from [REDACTED] and [REDACTED]. We have also contacted the Northland Conservation Board, and the Te Hiku Conservation Board to bring attention to this matter. We note that Ngati Kahu mandated a policy in April 2019 (<https://www.ngatikahu.iwi.nz/node/15868>) which appears in alignment with our clients dune preservation aspirations. We have asked both [REDACTED] and [REDACTED] whether they still support this policy. We have also contacted NRC – as they have a clear policy that motocross or all terrain vehicles should not drive on sand dunes and asked them how they might help.

The daily motocross usage at Puwheke is increasing exponentially due to restrictions/protection being enforced at other significant coastal dunes that were once motocross playgrounds. Our question is – how can DOC protect this taonga? What other methods or ideas are available in DOC's toolbox? We genuinely hope to solve this problem with DOC, hapu with mana whenua, NRC, and the Te Hiku Conservation Board.

We would be most grateful if yourself or your returning manager would get back to us next week – perhaps a phone call or meeting is more appropriate forum for the next stage? We look forward to hearing from you.

Nga mihi nui,

Kind regards

ATLAS LEGAL LIMITED

[REDACTED]
LLB



ATLAS LEGAL

P: [REDACTED]

www.atlaslegal.co.nz

This email is a confidential communication between Atlas Legal Limited and its intended recipient(s). If you have received it in error, please notify us by return email and delete this email.

6th November 2020

Atlas Legal
PO Box 144
KERIKERI 0230

██████████@atlaslegal.co.nz

Response from Department of Conservation to email dated 28th October 2020 regarding
Puwheke Beach Karikari Peninsula –Marginal Strip correspondence

Dear ██████████

1. Thank you for your email correspondence received on the 28th October 2020 addressed to Abraham Witana requesting urgent action to save the dune ecosystem and waahi tapu sites at Puwheke Beach.
2. Within your email you have several questions and suggestions for consideration to prevent the recreational activities that is creating damage on Puwheke Marginal Strip. Thank you for putting forward these ideas and being so proactive in connecting with the many stakeholders involved to advocate for the protection of the marginal strip.
3. As outlined in our correspondence dated 8th October 2020 the District Office at that time has been focused on consolidating actions on the following:
 1. Removal of the carpark and road from the marginal strip.

This action is a work in progress and will take time due to seeking buy-in. We are in conversations with the councils, community and Iwi/hapū to scope and design what the options will be considered and agreed to implement. We also are in the pursuit of protection of the coastal environment and conservation values, whilst enabling appropriate access to the beach. This will include investigating the provision of measures appropriate for Puwheke Beach such as bylaws, provisions in regional and district plans which will require the leadership of councils and the DOC.

2. Getting buy-in and collaboration with agencies who have mandate for the beach area, community and Iwi/hapū.

Communication with various agencies, community and Iwi/hapū has been ongoing. The intent is to work with all interested parties to collaborate in securing appropriate management tools to achieve the outcomes of the Conservation Management Strategy.

4. In addition to the actions stated in item 3 the District Office has secured resource and is working with the Regional Council coast care coordinator and hapū at place to be able to implement a co-ordinated approach as follows:
 1. Education is planned to be provided in the following ways:
 - a. Signage.
 - b. Flyers explaining the values and fragile ecosystems at place and the consequences from damage done.
 - c. Media content shared via Facebook and newspaper.
 - d. The Kaitiaki summer patrols.
 2. Enforcement approaches traditional and new:
 - a. The traditional approach is to work in collaboration with NZ Police to provide a presence along with staff of DOC and Regional Council and the Kaitiaki. We are working our way through this presently.
 - b. Historically, due to the Conservation Act the enforcement tools available to DOC staff were limited to two extremes of warning or prosecution when people have broken rules on lands or waters administered by DOC or protected species. In 2019 the [Conservation \(Infringement offences\) Regulations](#) were approved and since then DOC has designed new policy, guidelines, business process, and technology set up to enable staff to utilise the new regulations to best effect. Staff who are warranted officers will be able to issue infringement notices (which have an associated fine ranging from \$200 to \$800) as another enforcement tool. This is still in its infancy and staff in Northland who are warranted officers are forecasted to be trained and familiar with this new process by February 2021.
5. In conclusion I note in your email that you suggest perhaps a phone call or meeting is more appropriate forum. As per the last correspondence of 8th October 2020 my cellphone is 0278391078. I would welcome a phone call.

Yours sincerely,



Meirene Hardy-Birch
Operations Manager,
Kaitaia Area District Office

2 September 2021

Ref: A G Skinner

By Email: k.allan@ministers.govt.nz

Minister of Conservation
Wellington
New Zealand

Attn: Hon. Kiritapu Alan, Minister

Vehicle Access On and Across the Puheke Marginal Strip

1. We have been retained by Lucklaw Farm Limited, the proprietor of the farm property at 690 Rangiputa Road, Karikari. Our client's farmland runs contiguous with the Puheke Beach marginal strip, located on the Karikari Peninsula in the Far North.

Background

2. We refer to previous correspondence exchanged between Atlas Law, the previous Minister of Conservation (Hon. Eugenie Sage) and the Department of Conservation (**Department**), regarding the vehicle access allowed on Puheke Beach and in particular, the carpark and roadway which is presently located on the sand dunes which comprise part of the Puheke marginal strip.
3. The relevant background to our client's concerns is set out in Atlas Legal's letter of 20 August 2020, which we do not propose to repeat. However a copy of that letter, the previous Minister's response, and the Department's substantive response, are each **attached** for ease of reference.
4. In the Department's response letter of 8 October 2020, our clients' concerns regarding the management of the marginal strip (in particular, allowing vehicular access over it) were acknowledged and, indeed, accepted. At paragraph 15 of that Letter, the Department confirmed the following matters would be addressed in pursuit of its obligations to manage the marginal strip under the Conservation Act 1987:
 - 4.1 Removal of the carpark and roadway from the marginal strip.
 - 4.2 Getting buy-in and collaboration with agencies who have mandate for the beach area, community and iwi/hapū.(together, the **Actions**).
5. In the meantime, our client was encouraged to take photographs and report any vehicles being misused on the beach and/or marginal strip to the Police.
6. On 6 November 2020, the Department was asked what steps it had taken in pursuit of the Actions mentioned above. The Department's response was, effectively, that discussions

were underway, enforcement procedures were being "worked through" but nothing had been achieved. Copies of that correspondence is also **attached** for ease of reference.

Lack of progress

7. Another ten months has since passed, and it appears no progress has been made. In fact, our client has been disturbed to find that vehicle use on and across the marginal strip has increased over this period. Not only has the number of vehicles on the beach increased, but the proportion of persons misusing vehicles and anti-social behaviour on and around the marginal strip has also substantially increased. Such behaviour includes motocross riding through the dunes and freedom camping (including lighting fires, discarding rubbish and human waste).
8. The increase in vehicle traffic is possibly due to other sand dune areas in the Far North being progressively blocked off from vehicle access over the past 18 months, with a view to protecting and preserving those sand dunes. Unfortunately, the sensible protective measures taken at those other sites has had a significant flow-on effect to the Puheke marginal strip. Now, the traffic is diverted to sites where there are no barriers, like Puheke.
9. Over a year after our client first formally raised concerns regarding a carpark and vehicle access way having been illegally placed on the marginal strip, it appears nothing has been done to remove it. This is notwithstanding the fact that:
 - 9.1 The Department accepts there should not be a carpark nor vehicle access way on the marginal strip; and
 - 9.2 All relevant stakeholders (mana whenua, Northland Regional Council, adjoining landowners and community members) have established policies and/or strongly held views against vehicle access to the sand dunes.
10. In light of the above, and with respect, we cannot see what further "buy in" is required for the Department to fulfil its obligations in managing, maintaining and protecting the Puheke marginal strip (and preventing vehicle access to it).
11. Our client has, in the meantime, reported various vehicles to the Police. However there appears little interest in enforcement from local officers. As there is little to no signage and no barriers preventing vehicle access, nor appetite from Police to intervene, those who misuse the marginal strip continue to exhibit a sense of entitlement to drive and/or motocross through the sand dunes as they like. Direct encounters between our client director (Mr Sturgess) and those who are misusing the marginal strip almost inevitably result in conflict, which deters further intervention.
12. While some barriers have been put in place on one part of the marginal strip, there remains a distinct vehicle access way from the road, through the carpark (illegally on the marginal strip) and on to Puheke beach. In these circumstances, it is not altogether surprising that the level of vehicle access remains high, or that certain visitors still consider they are entitled to drive through the dunes. Without implementation of the Department's proposed Actions, this will not change.
13. Aside from misuse during usual times, under COVID-19 Alert Level 4 our client has also observed multiple vehicles driving on the beach each day (and on some occasions, after dark), which by definition means they have accessed the beach through the marginal strip.

Photographs have been sent to the Department's Kaitaia office, who have advised that they are not an "essential service" and cannot intervene under the current alert level.¹ Copies of photographs taken are **annexed** to this letter.

14. Our client is concerned at the apparent lack of urgency in the Department's approach to protecting the Puheke marginal strip and the native flora and fauna which inhabit it. While we appreciate these issues cannot be resolved overnight, the Department's lack of action over the past 12 months appears inexplicable. The steady increase in vehicular activity demands urgent action to protect and preserve this Outstanding Natural Landscape, just as steps have been taken to protect other areas and sand dunes in the Far North.
15. The Department and our client share a common goal: to protect and preserve the marginal strip, more particularly the dunes and native flora and fauna which inhabit it. The difference is, it is the Department's statutory obligation to protect and preserve the marginal strip for conservation purposes. However the Department's failure to implement the Actions mentioned above with any sense of urgency leaves our client with the inescapable sense that the Department is not fulfilling its obligations in this regard. Rather, it appears the Department is taking into consideration irrelevant matters (such as unqualified suppositions of vandalism, concerns with practical enforcement or alleged lack of resource), when determining not to undertake the Actions.
16. The Actions proposed should be realised without further delay or excuse. The misuse and destruction of the marginal strip by vehicles should not be tolerated by the Department any longer.

Way forward

17. Our client remains willing and able to assist the Department in its role in protecting the marginal strip. In particular, our client wishes to offer its assistance by making available its contractors (who are also the Department's contractors) to undertake the following works:
 - 17.1 Restoring the sand dunes in the area where the carpark is presently located, to return it to its original form and restore its Outstanding Natural Character;
 - 17.2 Constructing a barrier (fence which allows pedestrian access only) at the end of Puheke Road; and
 - 17.3 Installing more prominent signage to confirm that vehicle access across the sand dunes is prohibited.
18. The above works would effectively prohibit vehicles and motorbikes from driving across the marginal strip, onto the beach or otherwise, and allow the area currently used as a carpark to be restored as an area of Outstanding Natural Character.
19. It is not clear whether the Department considers there needs to be emergency vehicle access at this end of the beach, however we note that there is already an emergency access point to the beach, through a locked gate on our client's property (which emergency

¹ While noting that fishing from the beach is allowed under Alert Level 4, the public are expected to attend their closest fishing spot, not their favourite fishing spot. Given the isolation of Puheke it is impossible for any one of these persons to claim Puheke is more 'proximate' to their home than other beaches in the area.

services hold the key to). In our client's view, one emergency access point is sufficient. Further, having a gate which is accessible from the public road may only invite members of the public to attempt to breach and/or remove the gate. Accordingly, the barrier our client proposes to install and maintain is a fixed fence, rather than a gate.

20. To assist in advancing matters, our client proposes to meet the cost of this work up to a total of \$25,000, thereafter the Department would meet any additional cost. For clarity, the Department shall remain responsible for maintaining the separate Puheke Maunga look-out/carpark (which lies on the adjacent headland reserve, not the marginal strip).
21. Naturally, the fence design and details would need to be worked through, with an agreed timeframe (once Northland is returned to alert level 3 or lower). However, our client is more than happy to facilitate the Department's chosen design, so long as it will fulfil the stated objective: limiting access to the marginal strip to pedestrians only.
22. We welcome your consideration of the above, and invite the Department's key personnel to discuss this proposal further with us and our client at a roundtable meeting. Thereafter, consultation may be undertaken with the key stakeholders (mana whenua, Far North District Council, etc.) each of whom we expect will wholly support the proposed way forward.
23. In the alternative, we invite the Department's response to what steps, if any, it has taken to advance the Actions since November last year, and its expected timeline to complete the Actions. This will inform what steps if any our client will take next.
24. We look forward to hearing from you and/or the Department within 21 days, so that we may work toward a prompt and agreeable resolution of these issues.

Martelli McKegg



Telise Kelly

Senior Associate

DDI: +64 9 970 9568

Email: telise.kelly@martellimckegg.co.nz

Copy to: Meirene Hardy-Birch, Department of Conservation
John Carter, Mayor, Far North District Council
Hon. Kelvin Davis, MP for Te Tai Tokerau

05 October 2021

Telise Kelly
Martelli Mckegg - Organisation Type: Other

telise.kelly@martellimckegg.co.nz

Dear Ms Kelly

Thank you for your letter to the Minister of Conservation of 02 September 2021 about vehicle access on and across the Puwheke Beach Marginal Strip. Your letter has been referred to the department for reply.

You have provided a comprehensive letter communicating the concerns held by your client. I confirm that DOC is working towards:

- Removal of the carpark and roadway from the marginal strip.
- Getting buy-in and collaboration with agencies who have mandate for the beach area, community and the applicable hapū/iwi.

I acknowledge your client's perception of lack of progress. I welcome your client's proposed way forward as one element that can make a difference but note that it will require further discussion. This project is challenging and there is not the level of buy-in from others to ensure the layers of protection beyond a physical barrier (i.e. a fence) to ensure the long-term security and protection that your client and DOC seek.

I invite your client and you to meet with the local Operations Manager Meirene Hardy-Birch mhardy-birch@doc.govt.nz 0278391078 to discuss the current context on this project and your suggested proposed way forward.

Yours sincerely



Louisa Gritt
Acting Director Operations Northern North Island
Department of Conservation *Te Papa Atawhai*

Item: 27

Puwheke Car Park Barrier

Minor Works Business Case



File ref: DOC 6351499



Guidance for Minor Works BC Authors

The blue text in this template provides guidance to those completing a Minor Works Business Case. Please delete it as the template is completed. For assistance in filling out this template, contact the [DPMO](#).

Complexity Guidance

Before commencing a Business Case, the complexity level of the project should be determined using the Complexity Assessment Tool (CAT): [docCM 128-534](#). This single stage business case template is only to be used for projects that received a 'Minor Works' rating through the CAT. If your project received a Low, Medium or Complex rating, please you will need to complete an [Indicative Business Case](#) followed by a [Detailed Business Case](#).

Business Case Purpose

The purpose of a Business Case is to:

- Make a case for change and confirm the need for investment, outlining the value to the organisation in addressing an issue or investigating an opportunity
- Recommend the best solution to the problem or opportunity identified
- Establish the option which optimises value for money
- Outline the deal and assess affordability, and
- Demonstrate that the proposed project is deliverable.

Business Case Context

This Business Case has been developed specifically for Minor Works projects. These are generally straightforward with minor risk to the Department and low delivery risk. This Business Case requires a level of accuracy of +/- 10%.

The approval of the Business Case will enable the project to deliver to the specifications in the Business Case. It will be recognised as a Gate 1 approval to deliver.



Five Principles for Developing a Business Case

1. **Focused** - A Business Case should be focused on the justification of the strategic & economic value of undertaking an initiative.
2. **Concise** - The body of the document should not exceed 4 pages. Consider using links, appendices or diagrams/ maps if appropriate. Do not repeat any content in more than one section.
3. **Relevant** - The Business Case template is designed to document only the information required for effective decision making. Please do not delete or change sections. You can 'complete' a section with the phrase 'not applicable' if appropriate. Be cautious about adding extra material which is not asked for in the template. Remember - less is more!
4. **Factual** - Back your assertions with fact and provide the source of the information.
5. **Written for the audience** - Make sure that the document can be easily understood by someone who is not familiar with the initiative. Content should be aimed at Governance level.

Approval

It is recommended that the Project Sponsor:


- Approves the delivery of this initiative, with capital costs (incl. contingency) of \$7,325 over 1 year.

Funding required	FY 20/21	FY xx/xx	FY xx/xx	FY xx/xx	FY xx/xx Ongoing	Total
Capital / CAPEX	\$7,325	\$	\$	\$	\$	\$7,325
Capital Contingency	\$0	\$	\$	\$	\$	\$
TOTAL CAPEX	\$7,325	\$	\$	\$	\$	\$7,325
Operating / OPEX	\$	\$	\$	\$	\$	\$
Operating Contingency	\$	\$	\$	\$	\$	\$
TOTAL OPEX	\$	\$	\$	\$	\$	\$

- Approves the Funding Sources and Funding Allocations for this initiative as identified in the Costs section of this Business Case
- Notes that there is no contingency as the work has already been completed and invoiced due to the urgency.
- Notes that the costs for this work was treated as OPEX in last financial years figures.



Note: This approval is only valid for the solution defined here, any changes in Time, Cost, Quality, Scope or Benefits to this solution will need further approval and should be requested via DOC's PMF Change Control process.


I, the undersigned, agree with the above recommendations and approve this Minor Works Business Case, and have the appropriate delegated authority to do so:

Name	DOC Title	Governance Role	Signature	Date
Darryl Lew	Director Operations Planning	Sponsor		24/08/2020
Comments:				

Endorsement

We, the undersigned, agree with the above recommendations and endorse this Business Case:

Name	DOC Title	Governance Role	Signature	Date
Stephen Soole	Regional Operations Director (acting)	Senior Responsible Owner		14/08/2020
Comments: My signing is done noting the comments raised by the accountant regarding DPMO guidance, and expenditure incurred without appropriate approval (i.e. a signed business case must be treated as opex). My endorsement is therefore provided to the extent that the costs stated are reasonable and that works have already been carried out under urgently.				
Marlene Bowers	Region Planning Manager	Senior Supplier		06 August 2020
Comments:				

Meirene Hardy-Birch	District Operations Manager	Benefits Realisation Manager		29 th July 2020
Comments:				

Assurance

Name	DOC Title	Signature	Date
Tim Wilson	Accountant		14/10/2020

Comments: As per DPMO guidance, any expenditure incurred without appropriate approval (i.e. a signed business case) must be treated as opex. Aside from this, given the level of materiality, an adjustment to last year's financials is unlikely but does pose an area of audit concern. My assurance is only provided to the extent that the financial figures stated in this document are sensible.

Kary Bent	Senior Visitor Advisor		30/07/2020
-----------	------------------------	---	------------

Comments:

Meets Capex Criteria priority 3 and treaty partner aspirations. Strategically aligns with the Heritage & Visitor Strategy by enhancing the protection of natural, cultural and historic heritage. It also prevents a legal and environmental failure.

Supporting documents

Document	Link
Completed Complexity Assessment Tool (confirming Minor Works)	N/A as project < \$25,000
WOLC financials	DOC-6351341

Key Questions

Context / Purpose

MP Notification	MP- 10444504
What is the current state?	<p>PROBLEM</p> <p>Vehicles are leaving the Pūwheke car park in several places and driving over and through the public conservation land known as O03004-Pūwheke Beach Marginal Strip of 55.4 hectares which consists of a fragile dune system, several archaeological/wahi tapu-burial sites and endemic plants and species. Through this access point vehicles are encroaching on a neighbouring private land that suffers from dune encroachment, via the associated marginal strip. These vehicles are destroying the fragile dune ecosystem.</p> <p>The area currently being used for a car park was created by historic metal road maintenance grader drivers who over time formed a turn bay area for their graders which overtime has been adopted by the broader community as a carpark. This carpark is on the Marginal Strip and in breach of the intended use of land, therefore should not have earthworks or structures built on it.</p> <p>During COVID-19 lockdown the use of the area increased, we believe this was due to being less visible to the public and the neighbouring landowner raised this with the department. Therefore, the department needed to respond to the situation immediately to support the appropriate behaviour around COVID-19 levels and protecting the delicate coastal environment and wahi tapu areas, especially if we went into lockdown again.</p> <p>SOLUTION</p> <p>Spawls/large boulders were placed around the border to the carpark as a temporary solution. This has blocked off vehicle access into the dunes and guides vehicles to one entrance, at the right-hand side of the beach to public conservation land known as O03004-Pūwheke Beach Recreation Reserve. This work has been completed and the cost for this work was \$7,325.</p> <p>In addition to installing spawls, advocacy will be done via the local paper (Northland Age) and the Karikari local community Newsletter. This will talk about the cultural, biodiversity and legislation of the area.</p> <p>Erecting a fence was considered as an option but given the appetite by beach goers to get around current barriers, the likelihood of this fence being dismantled was high.</p>
What is the objective of this investment?	The objective is to guide vehicles through one beach entrance on the Recreation Reserve and away from the marginal strip. This will prevent vehicles from creating multiple access points to the beach and destroying the sand dunes. This will also ensure the department is acting lawfully.
Scope of Works	<p>Spawls (large boulders) were placed around the border of the carpark.</p> <p>Behaviour change work will be undertaken to manage visitors.</p>
What are the impacts of this investment?	<p>Visitor behaviour will be managed</p> <p>Relationship with neighbouring landowner will be improved</p> <p>Local Hapu/Iwi considerations will be taken into account</p>

Strategic Drivers

What are the main drivers for this proposal?

Visitor compliance
 Biodiversity protection
 Stretch goal - 90% of New Zealanders think the impacts of visitors on public conservation lands and waters are very well managed.

Benefits

Benefit #	Category	Benefit Title	Performance measure	Baseline value	Measure evidence	Target value & date	Benefit Owner
1	Compliance	Steering visitor behaviour	Visitor observations and dune damage	Damage reduced from 2020 anecdotal reports	Ranger conducting site visit every 3 months	No dune damage. June 2021	Meirene Hardy-Birch
2	Biodiversity	Dune protection	Dune damage	Damage reduced from 2020 anecdotal reports	Ranger conducting site visit every 3 months	No dune damage. June 2021	Meirene Hardy-Birch

Dis-benefits

Dis-benefit #	Category	Dis-Benefit Title	Performance measure	Baseline value	Measure evidence	Target value & date	Dis-Benefit Owner
Nil	Choose an item.	[Brief title]		[Current state of measure]	[What data will be collected]	[Future state anticipated & by when]	[Name]

Risks

Risk Group	Risk Category	Short Name	Source of Concern or Opportunity	Implications	Rating
Flow-on Risk	Reputational	Control of Visitor Activity	If the access to the beach is limited	The department maybe criticised	High

Dependencies

There are no dependencies.

Deliverables

In Scope	Out of Scope
Spawls (large boulders) were placed around the border of the existing carpark	Long term the intention is to work with the Far North District Council (who manage the road), neighbouring landowners and local Hapu to potentially pull the car park back off the Marginal Strip and locate on DOC Recreation Reserve.

Options Identification

Option 1 Spawls (large boulders) will	Option 2 Erecting a fence	Option 3 Maintain Status Quo
--	------------------------------	---------------------------------

	be placed around the border to the carpark		
Advantages/Benefits	Low cost More secure	More visually appealing	No capital cost
Disadvantages/Risks		Given the appetite by beachgoers to get around current barriers, the likelihood of this fence being dismantled is high	Dune damage will increase and neighbour frustrations will escalate
Procurement Method	No procurement required	No procurement required	

Preferred Solution

The preferred option selected by the district was option 1, because this is the most resilient to vandalism. Other options were rejected because of the increase chance of vandalism.

Timing

Forecast Date	Key Milestones
31/08/2020	Business Case approved
30/10/2020	Delivery Phase Complete
31/12/2020	Closure Phase Complete

Costs

DOC-635341

Summary Financials	Year 1 FY 20/21	Year 2 FY xx/xx	Year 3 FY xx/xx	Year 4 FY xx/xx	Year 5 FY xx/xx Ongoing	Total
Capital Expenditure						
Capital Expenditure	\$7,325	\$	\$	\$	\$	\$
Capital Contingency	\$	\$	\$	\$	\$	\$
Third Party Funding	\$0	\$	\$	\$	\$	\$
Total Capital / CAPEX	\$7,325	\$	\$	\$	\$	\$
Revenue						
Revenue / Savings	\$	\$	\$	\$	\$	\$
Total Revenue / Savings	\$	\$	\$	\$	\$	\$
Operating Expenditure						
Personnel	\$	\$	\$	\$	\$	\$
Other Operating	\$	\$	\$	\$	\$	\$
Asset Write-offs	\$	\$	\$	\$	\$	\$
Depreciation	\$122	\$244	\$244	\$244	\$244	\$244
Operating Contingency	\$	\$	\$	\$	\$	\$
Capital Charge*	\$440	\$440	\$440	\$440	\$440	\$440
Total Operating/OPEX	\$	\$	\$	\$	\$	\$
Metrics	WOLC**	\$7,325	NPV	\$7,325	Payback Period	-

*Capital Charge: Only applicable when there is new funding.

**WOLC - NPV when initiatives do not generate revenue.

Funding Source(s)

Funding Source(s)	FY 20/21	FY xx/xx	FY xx/xx	FY xx/xx	FY xx/xx Ongoing	Total
VA Capital 20/21 reactive	\$7,325	\$	\$	\$	\$	\$11,000
Third Party Funding (if any)	\$	\$	\$	\$	\$	\$
Total Capital / CAPEX	\$7,325	\$	\$	\$	\$	\$
	\$	\$	\$	\$	\$	\$
Total Operational / OPEX	\$	\$	\$	\$	\$	\$

Funding Allocation

Director operations NNI

Allocated to (by Director Area):	FY 20/21	FY xx/xx	FY xx/xx	FY xx/xx	FY xx/xx Ongoing	Total
NNI	\$7,385	\$	\$	\$	\$	\$
	\$	\$	\$	\$	\$	\$
Total:	\$11,000	\$	\$	\$	\$	\$

Map – Pūwheke Beach and Car Park



Use address, valuation nur



0 0.2 0.4km
1,625,964.870 6,142,540.421 Meters

About

Heritage NZ (HNZPT)
The New Zealand Heritage List identifies New Zealand's significant and valued historical and cultural heritage places. Established under the Historic Places Act 1993 as the 'Register of historic places, historic areas, wāhi tapu and wāhi tapu areas', it is continued under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) as the New Zealand Heritage List/Rārangī Kōrero ('the List'). Please see ['the List'](#) for further information.

HNZPT Disclaimer
Entry on the New Zealand Heritage List/Rārangī Kōrero identifies only the heritage values of the property concerned, and should not be construed as advice on the state of the property, or as a comment of its soundness or safety, including in regard to earthquake risk, safety in the event of fire, or insanitary conditions.

New Zealand Archaeological Association (NZAA)
Recorded archaeological sites from the New Zealand Archaeological Association. For further information please visit [Archsite](#) or contact the ArchSite Coordinator admin@archsite.org.nz

NZAA Disclaimer
The New Zealand Archaeological Association Incorporated gives no warranty in relation to the data (including accuracy, reliability, completeness or suitability) and accepts no liability (including, without limitation, liability in negligence) for any loss, damage or costs relating to any use of the data.

Operative District Plan (FNDC)
Please consult the relevant sections and [Appendix 1](#) for further information regarding notable trees (1D), heritage sites (1E), archaeological sites (1G), and sites of cultural significance (1F) in this map.

FNDC Disclaimer
While the Far North District Council strives to keep the data in this service current, it may not be the most recent or most accurate data available. No reliance on the information contained on this map by any person is permitted. FNDC will not be liable for any omissions or errors of information contained on this map. FNDC recommends that persons seek specific advice on individual properties from FNDC and other specialist organisations which may hold more up to date or accurate information.

Aussie billionaire demands the National Gallery of Australia remove unflattering portrait

Sign in with Google

Use your Google Account to sign in to nzherald.co.nz

No more passwords to remember. Signing in is fast, simple and secure.

View now

ADVERTISEMENT

OneRoof has over **14,000** properties for sale in **Auckland.**

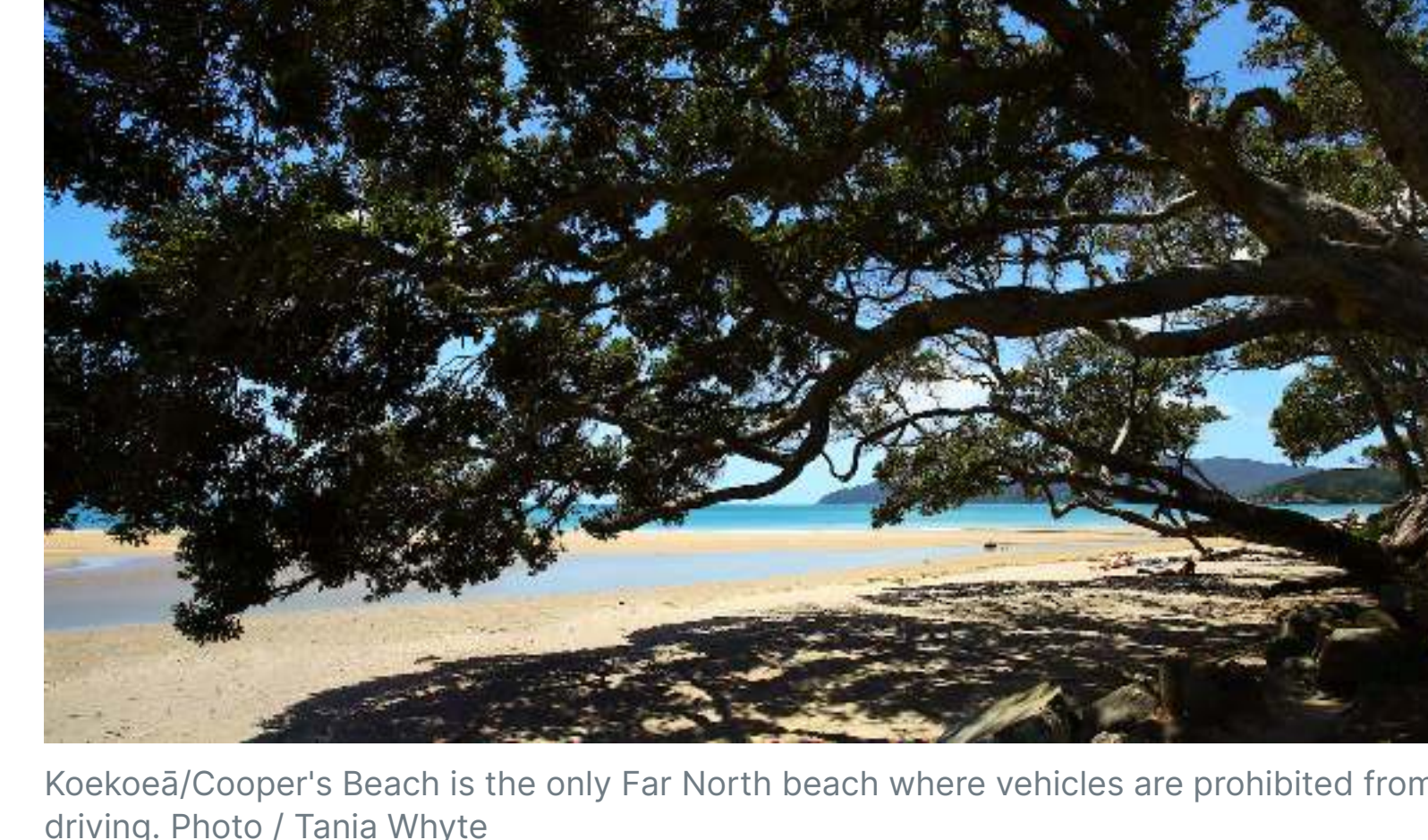
View now

Advertise with NZME.

FNDC social media post creates confusion over changes to new bylaw

Northland Age Save Share

22 Mar, 2022 10:46 AM 3 mins to read



Koekoehā/Cooper's Beach is the only Far North beach where vehicles are prohibited from driving. Photo / Tania Whyte

A recent Far North District Council Facebook post about amendments to a new bylaw has left people scratching their heads in confusion.

The post, which called for consultations to amend provisions in the Road Use Bylaw, incorrectly gave the impression the proposal would affect all beaches.

According to the district council, that was never the case and it has since clarified the social media post.

Council acting communications manager Ken Lewis said the proposal to amend the new Road Use Bylaw represented only an administrative change to retain the status quo for driving on Far North beaches.

ADVERTISEMENT

Sponsored by Chorus - NZ Herald

Pushing the boundaries with fibre

Smart connectivity tech changing the face of outdoor advertising

View more

Advertise with NZME.

"The council is obliged to consult on a proposal to move provisions contained in the Vehicles on Beaches Bylaw to the Road Use Bylaw," Lewis said.

"The aim is to simplify our bylaws and vehicles will continue to be prohibited from Coopers Beach.

"This was the overwhelming preference expressed by the Coopers Beach community when the council asked for feedback last year on the use of vehicles on Far North beaches."

Last year, the council requested feedback regarding the use of vehicles on Far North beaches, with almost 500 people responding, covering about 50 beaches in the district.

ADVERTISEMENT

IF IN CINEMAS NOW

BOOK TICKETS

Advertise with NZME.

The beaches mentioned most were Te Oneroa-a-Tōhe (Ninety Mile Beach) and Tokerau Beach.

Based on that feedback, the council decided to include some rules about driving on beaches in the new Road Use Bylaw.

Te Oneroa-a-Tōhe is managed according to the Beach Management Plan and therefore falls outside the scope of the new bylaw.

The council is now asking submitters whether they agree the Road Use Bylaw should be amended to include provisions contained in the Vehicles on Beaches Bylaw, which prohibits vehicles specifically on Coopers Beach.

At present, people can drive on all Far North beaches except Coopers Beach, which received unanimous input from the community to prohibit vehicles on that particular beach.

The new Road Use Bylaw has already been consulted on and regulates traffic control and activities on roads and adjoining land such as footpaths.

According to the council, it made sense to combine these and other road-related activities in one bylaw.

Te Hiku Community Board, Doubtless Bay Subdivision board member Sheryl Bainbridge said the bylaw restricting vehicle use on Coopers Beach was imposed several years ago in response to community concerns regarding the safety of other beach users.

She said at the time, barricades were constructed using rocks at the main parking area and bollards at the other access point.

Apart from the odd occasion, she believed these measures had generally worked well.

"Being a relatively safe swimming beach, and with shade provided by the line of ancient pohutukawa, Coopers Beach is ideal for families," Bainbridge said.

"To again allow vehicles to drive on the beach would compromise the safety and enjoyment of a large number of beachgoers.

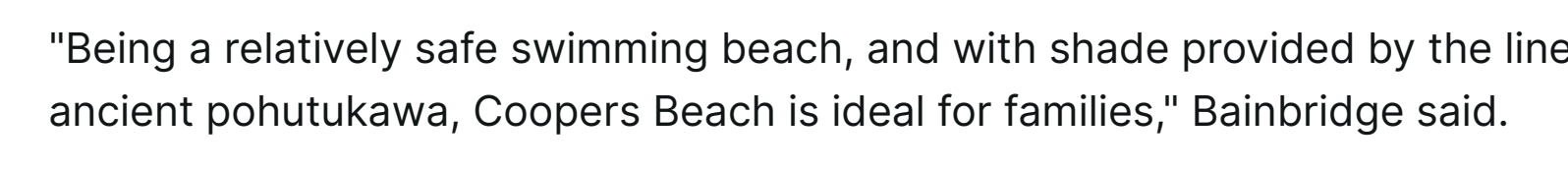
"People drive on beaches to go fishing, gathering kaimoana and/or to have some peace and quiet. I do not agree with banning vehicles from all beaches, as I feel it is up to individual communities to decide what is best for them.

"The council does not impose bylaws for fun. They are a tool to protect beach users against the moronic minority that has no thought for others."

Road rules must be followed when driving on beaches, including staying within the speed limit, not driving recklessly or dangerously, and not driving under the influence of alcohol or drugs.

Drivers should also take extra care on beaches and acknowledge they are shared spaces with beachgoers, including children.

Beaches also often host protected bird species and marine mammals.



ADVERTISEMENT

Sponsored by Maserati International - NZ Herald

The fast and the glamorous

Why this stylish creative is blown away by Maserati's new SUV

View more

Advertise with NZME.

Latest from Northland Age

News briefs from the Far North - Building consent success, LTP submissions and writing grants

16 May 05:00 AM

Opening date set for Kaitiāia's Te Hiku Sports Hub and new town square

16 May 05:00 AM

New kina regulations likely after Far North meeting

15 May 02:00 PM

Celebrating 135 years of education at Waimamaku

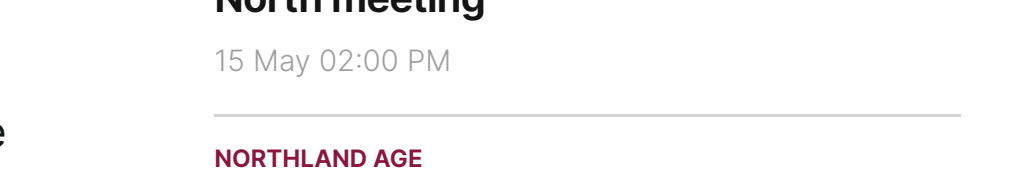
15 May 01:00 PM

Retirement? What retirement?

SPONSORED

FIND YOUR DREAM HOME

Powered by OneRoof



Waimārama

Most popular

Kaitiāia's CCTV system stamping out crime and anti-social behaviour

21 Mar 05:00 AM

Far North whānau demand speed reduction following tragic accident

30 Sep 05:00 AM

Star claims they were assaulted on set of Taika Waititi TV series

16 May 09:58 AM

ADVERTISEMENT

BOOGIE WONDERLAND DISCO BALL

Where glam meets groove...

16 May

Advertisement by Auckland Philharmonia

Boogie Wonderland Disco Ball

Groove the night away for a good cause with Auckland Philharmonia!

Book Now

Advertise with NZME.

Recommended for you

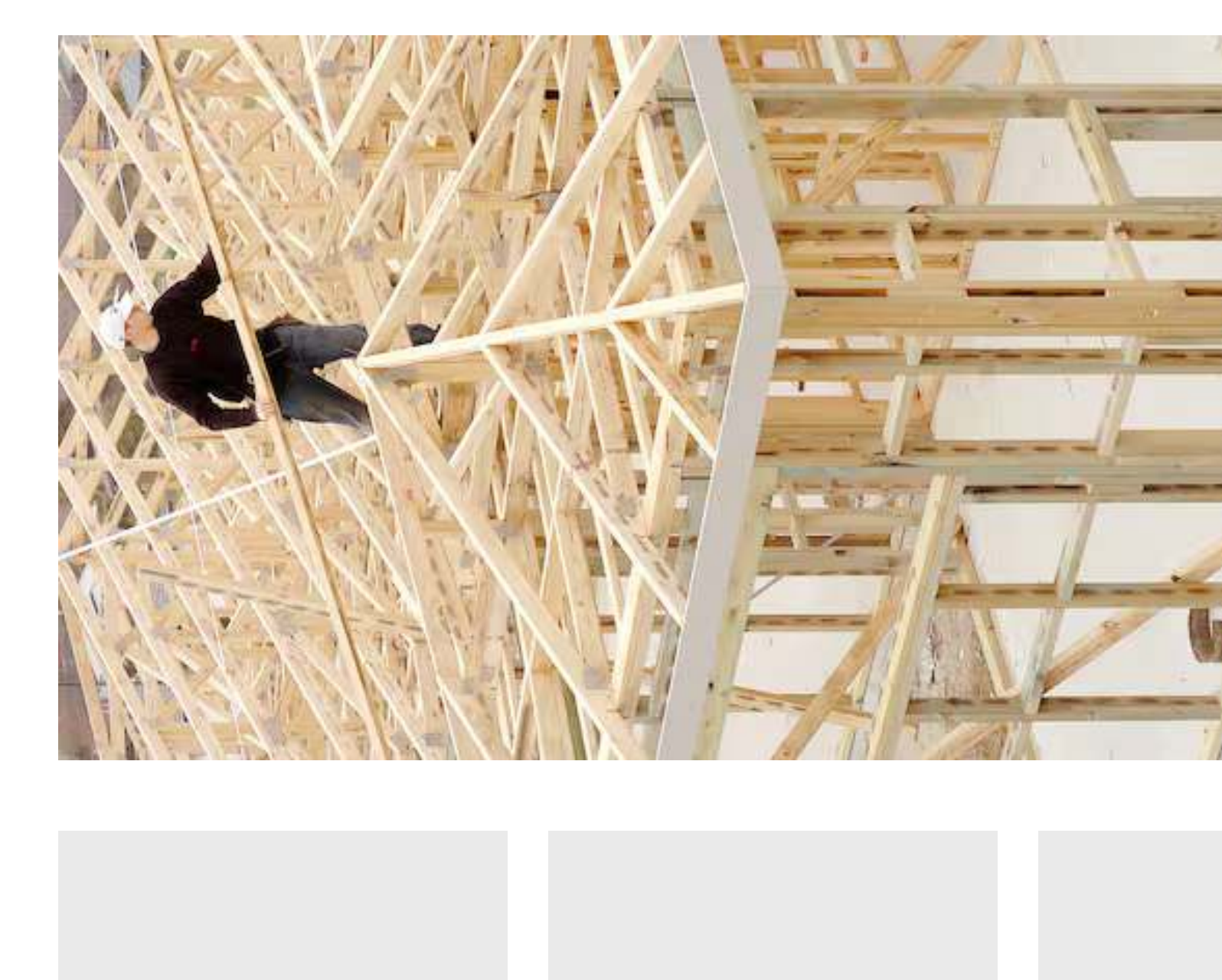
Refresh for more

- WELLINGTON PHOENIX**
Phoenix to make 'small loss' on semi despite likely sellout
"A game like this during the season would fund the club for a year."
- NEW ZEALAND**
Wayne Brown urges councillors to get on and pass the budget
The Mayor arrived at the meeting wearing a Coastguard cap saying "Rescue Auckland".
- WAIKATO HERALD**
Traumatic truths, domestic violence and a hair salon: The story that won a \$10k Australian prize
Tracey Slaughter is the first overseas winner of the Calibre Essay Prize.
- KAHU**
Nathan Durie believes charter schools could help Māori prosper
School tumuaki Matua Nathan Durie believes Māori could prosper under charter schools.
- TRAVEL NEWS**
Chinese climbers stuck on cliff over an hour by crowds
Forget Everest's "traffic jam at the top of the world!"

Paid promoted content

- Review - Twilight at The Sugar Club..**
SkyCity
- Peter and the Wolf with Dynamotion**
Auckland Philharmonia
- Avoiding mistakes many investors make**
Milford

Latest from Northland Age



News briefs from the Far North - Building consent success, LTP submissions and writing grants

16 May 05:00 AM

News snippets from the Far North.

- Opening date set for Kaitiāia's Te Hiku Sports Hub and new town square**
16 May 05:00 AM
- New kina regulations likely after Far North meeting**
15 May 02:00 PM
- Celebrating 135 years of education at Waimamaku**
15 May 01:00 PM
- Forestry seen as modern investment**
SPONSORED

Paid promoted content

The New Zealand Herald

Facebook, Twitter, Instagram, YouTube, SoundCloud, RSS

NZ HERALD	SUBSCRIBER SERVICES	NZME NETWORK	NZME
About NZ Herald	The Northland Age e-edition	The Northland Age	About NZME
Meet the journalists	Manage your print subscription	The New Zealand Herald	NZME careers
Newsletters	Manage your digital subscription	The Northern Advocate	Advertise with NZME
Classifieds	Subscribe to Herald Premium	Waikato Herald	Digital self-service advertising
Help & support	Subscribe to The Northland Age	Bay of Plenty Times	Photo sales
Contact us	Gift a subscription	Rotorua Daily Post	NZME Events
House rules	Subscriber FAQs	Hawke's Bay Today	
Privacy Policy	Subscription terms & conditions	Whanganui Chronicle	
Terms of use	Promotions and subscriber benefits	Viva	
Competition terms & conditions	Bundle subscriptions	NZ Listener	
		What the Actual	
		Newstalk ZB	
		BusinessDesk	
		OneRoof	
		Driven CarGuide	
		iHeart Radio	
		Restaurant Hub	

NZME. Copyright 2024 NZME Publishing Limited

Analysis of submissions and recommendations

Provisions regulating vehicles on beaches to be in the Road Use Bylaw

1 Background

The Vehicles on Beaches Bylaw 2015 was automatically revoked on 12 March 2022, under section 160A of the Local Government Act 2002 (LGA). On 24 February 2022, under section 155(1) of the LGA, the governing body of the Far North District Council determined that a bylaw is the most appropriate way of addressing problems related to vehicles on beaches in the Far North District and that provisions regulating vehicles on beaches should be incorporated into the draft Road Use Bylaw, including the prohibition of vehicles at Coopers Beach. This proposal maintains the status quo, in that vehicles continue to be prohibited on Coopers Beach, and the Council retains a mechanism to prohibit or restrict vehicles on other beaches where appropriate, but under a different bylaw.

The period for public consultation on the proposal ran from 25 February 2022 to 24 March 2022, with oral hearings on 22 March 2022. Eighty submissions were received, and one oral submission was made.

This report analyses the submissions and makes recommendations for amendments to the draft provisions regulating vehicles on beaches to be included in the draft Road Use Bylaw. A numbered list of submissions is in the Appendix and these numbers are used to refer to the individual submissions in the body of this report.

During the submissions period, on 16 March 2022, an incorrect post was put on the FNDC Facebook page, inviting the public to submit on the proposal. Unfortunately, this social media post incorrectly gave the impression that the Council was considering prohibiting vehicles on all beaches in the Far North district. This was never the case. While the Council will retain a mechanism for prohibiting or restricting vehicles on beaches, it will only consider prohibiting or restricting vehicles on a specific beach after proper engagement and consultation with affected communities. This proposal only includes Coopers Beach.

Although a correction to the Facebook post was made within 24 hours, a significant portion of the submissions received were in response to the incorrect Facebook post, and many of these responses indicate that the submitters did not read or understand the proposal. Sixty responses were received after the Facebook post was made. Although this means that a number of the submissions are out of scope, it indicates the strength of community feeling regarding the use of vehicles on beaches. This feedback will be utilised for further engagement work that Council staff plan to do on this issue.

Council staff from the following teams contributed to the analysis of the submissions:

- Strategy Development
- Legal Services

2 Summary of submissions

Eighty submissions were received, with seventy-three of these received online using a submissions form, and seven via email. One submitter also presented his views orally to the Strategy and Policy Committee. The online form asked people the following questions:

- Do you support including the provisions to regulate vehicles on beaches in the new Road Use Bylaw?
- Do you have any views on the Schedules regulating beaches to be added to the new Road Use Bylaw?

- Is there anything else you would like to tell us about the proposal to include provisions regulating vehicles on beaches in the new Road Use Bylaw?

Table 1: Table showing submitters' support for the inclusion of provisions to regulate vehicles on beaches in the new Road Use Bylaw

	Number of submissions			
	Support	Do not support	Not sure / No answer	Total
Submissions received prior to the incorrect Facebook post	17	3	0	20
Submissions received after the incorrect Facebook post	15	42	3	60
Total	32	45	3	80

One person who made a written submission asked to submit verbally to the Strategy and Policy Committee and was heard by the Committee on 22 March 2022. This submission was in support of the proposal.

The proposal to include provisions regulating vehicles on beaches in the new Road Use Bylaw is essentially an administrative change, as in effect it maintains the status quo, but under a different bylaw framework. Therefore, the scope of the questions asked in this consultation was narrow. However, there is a great deal of public interest in the wider issue of whether or not vehicles should be driven on some or all beaches in the district. Many of the responses comment on matters that are beyond the scope of this proposal.

Based on the comments received, it appears that a number of submitters have taken the first question to mean "Do you support prohibiting vehicles on beaches in the Far North district?" This is especially the case with the sixty submissions received after the incorrect Facebook post. More than one submission stated that they were opposed to the proposal and felt that the Council should maintain the status quo; this proposal will in fact maintain the status quo. Others stated opposition to the proposal, but then commented they would like some vehicle-free zones, which again, would be possible under the proposed bylaw change.

Because of the problem with social media communications regarding the proposal, the general feedback will include an additional subsection which will summarise the feedback on the wider issues surrounding vehicles on beaches. Although this feedback is out of scope, it is pertinent to the wider context of the Council's ongoing work on this issue.

3 General feedback on the proposal

The following feedback was received on the proposal that is not related to a specific clause in the draft provisions regulating vehicles on beaches.

3.1 Support for Council including the provisions to regulate vehicles on beaches in the new Road Use Bylaw

Prior to the incorrect Facebook post, the majority of the submissions (17) were in favour of the proposal, and three did not support it. After the incorrect Facebook post, most submissions (42) were not in support, with the remainder either in favour (15) or not sure (3). Many of the later submissions appear to be in response to the idea of a general prohibition of vehicles on beaches.

The majority of additional comments received from people in favour of the proposal were regarding wider issues of vehicle use on beaches, and further regulation that they would like to see put in place. Submissions 1, 8, 9, 12, 16, 20, 23, 37, 70, and 80 were in favour but wished to see stronger regulation.

Submission 4 was presented both orally and in writing. The submitter was in favour of the proposal in general, and also in favour of the Council moving to regulate under the Land Transport Act 1998. However, he felt that by banning vehicles on a particular beach, i.e. Coopers Beach, the Council was permitting, or even encouraging,

people to drive on all the other beaches in the district, which causes a lot of damage to the environment. He did not feel that this was the norm in the rest of Aotearoa New Zealand, and thought there should be better signage to discourage inappropriate vehicle use.

Submission 4 also had concerns regarding the definition of a beach as a road under the Land Transport Act 1998, and questioned whether the proposal would enable regulation of vehicles on beaches that are not road in the crown title. The issue of whether the Council has the right to regulate vehicles on beaches, where they are not legal road in terms of property, also came up in submissions against the proposal, and is addressed below in section 3.2.

Staff analysis

It is difficult to quantify precisely how many submissions were in response to the detailed proposal, and how many were in response to the idea of a blanket prohibition of vehicles on beaches. In general, the submissions from the public were mixed. However, the majority received before the incorrect information went out were in favour. Furthermore, some of the negative responses indicated in their comments that they were in favour of some regulation or wished to retain the status quo.

Of those in favour, most comments expressed a desire for the Council to do more regarding these issues. Submissions 1, 8, 9, 12, 16, 20, 23, 37, and 70 were in favour but wished to see stronger regulation. This is beyond the scope of this proposal, but will be considered in further planned engagement with beach communities and interested parties.

Submission 80 was an extensive submission on several aspects of the regulation of vehicles on beaches and the Road Use Bylaw. It was in favour of the proposal, but like many other submissions, advocated for much more regulation, as well as raising wider issues. This submission will also be addressed at various points below, and in the work on the Road Use Bylaw.

Although in favour of regulation, Submitter 4 felt that prohibiting vehicles on a specific beach had created an unintended problem by encouraging people to think that they could drive on all the other beaches in the district. The submitter's view that the Council had in part created this problem through the prohibition on Coopers Beach is incorrect. Many members of the public are not aware of the wide definition of "road" in the Land Transport Act 1998, and do not know that the public may drive on many beaches throughout the country (and that the usual road rules still apply). Regular media articles indicate that conflicting views about acceptable use of vehicles on beaches is an issue for several territorial authorities. However, the high number of beaches, large numbers of holidaymakers, growing population, and challenges of roading infrastructure in the Far North district may mean that these problems are becoming particularly acute here. These concerns will form part of the wider discussion on vehicles on beaches.

Staff recommendation

Council staff recommend no changes in response to these submissions.

3.2 Do not support Council including the provisions to regulate vehicles on beaches in the new Road Use Bylaw

Many of the submissions that were not in favour appear to be in response to the idea of a prohibition on vehicles on all beaches. This was not put forward in the proposal. This wider question is out of scope and that feedback will be summarised below in section 3.4.

Forty-five submissions were against the proposal, most of which were received after the incorrect Facebook post. Of those that were opposed, submissions 19, 26, 27, 52, 56, 60, and 77 expressed a view that the Council should not be involved in regulating vehicle use on beaches at all. Submission 78 commented in support of the vehicle ban on Coopers Beach, but stated that they did not trust the Council to allow itself the ability to restrict vehicle access on other beaches. Submission 57 expressed similar mistrust in the Council, and felt that the Council was planning to put other beaches into the schedule without consultation.

Some submissions were against the proposal for reasons which are related to the Council's authority to make such regulations. Submission 58 stated that *"The foreshore and seabed is not Crown property under international law. Until this is resolved fndc is assuming authority under a false pretense."* Submissions 27, 50, 57, and 69 raised objections based on the rights of tangata whenua, and disputed that the Council had a right to restrict activities on the beach. Submission 41 expressed a view that FNDC does not own the beach and is not Transit New Zealand [now Waka Kotahi], so therefore has no say in regulating the beach.

Submissions 19, 25, and 68 were against the proposal, but commented that they wished to retain the status quo.

Submission 33 answered "no" to the proposal, but commented in support of having both *"safe swim zones and also vehicle areas"*.

Submission 39 opposed the proposal, but commented that heavy machinery like those working mussel spats should not be allowed on beaches.

Staff analysis

A number of the submissions were against the proposal, for a variety of reasons. This is to be expected. When the Council surveyed communities about the use of beaches in the Far North district in 2021, there were a wide range of views expressed, which mentioned 50 different beaches. Most views were mixed, however, the Coopers Beach community response was strongly in favour of retaining the prohibition of vehicles on Coopers Beach. The proposal will only prohibit vehicles on Coopers Beach, and this does reflect the wishes of that specific community.

The Council is already aware that any decision to restrict or prohibit vehicles on any other beach, or part of a beach, will require proper engagement and consultation with affected communities. While some of the feedback that was against the proposal is out of scope, it is important to note the strength of community feeling on this issue, both for and against vehicle restrictions. Two of the submissions expressed a lack of trust in the Council to have the ability to restrict vehicle access on other beaches. Council staff are aware of the importance of building trust with the communities we serve, and will continue to work hard on appropriate engagement and consultation on this issue.

Several submissions expressed views that the Council did not have ownership of the beach, and therefore had no authority to regulate vehicles on beaches. Submitter 4, who was in favour of the proposal, also expressed some doubt as to whether the Council could regulate vehicle use on beaches that are not road in terms of title.

It is correct that not all beaches are legal road in terms of property; some may be reserves, or some may be in iwi ownership, for example. However, the definition of "road" in the Land Transport Act 1998, which is used for law enforcement purposes, includes places "to which the public have access", and includes beaches. There is a useful summary provided by [Waka Kotahi](#). Section 22AB (1)(f) of the Land Transport Act allows road controlling authorities to make bylaws to prohibit or restrict the use of vehicles on beaches.

Legal advice received as part of the work on the vehicles on beaches provisions has ascertained that the majority of beaches that have been surveyed on this issue are accessible by road and are public land, either reserve or unformed legal road. Therefore, these beaches meet the definition of road in the Land Transport Act, and the Council has the right to regulate vehicle use on these beaches.

The rights of tangata whenua are deeply important to the Council. Any discussion of whether or not vehicles should be restricted or prohibited on any other beach or part of a beach will require proper consultation with the appropriate iwi and hapū.

Submissions 19, 25, 33, 39, and 68 were against the proposal but wished to retain the status quo, or commented in support of partial restrictions. The proposal will in fact keep the status quo, and enable partial restrictions (with consultation). Therefore, the concerns expressed by these submissions are already addressed in the proposal.

Staff recommendation

Council staff recommend no changes in response to these submissions.

3.3 Submissions regarding the Schedules regulating beaches to be added to the new Road Use Bylaw

Most submissions answered the question regarding the Schedules 6 and 7 to be added to the new Road Use Bylaw with general comments about their views regarding vehicles on beaches.

There were some comments offering feedback on the Schedules, and noting some specific beaches, as follows:

- Submission 1 said that: *“The default should be no vehicles on beaches, with vehicle access to be negotiated, not the other way round as proposed.”*
- Submission 14 commented: *“I live in Rawhiti. Locals use the beach as a drag strip. It's shocking. So yes, I fully support no cars on beaches.”*
- Submission 57 stated that: *“I note you only have Coopers beach in schedule 6 and nothing in schedule 7. Has this been done purposely to fool people? What other beaches do you intend to put into this schedule once it's up and running?”*
- Submission 72 commented that: *“The schedules should give more priority to wildlife on beaches.”*
- Submission 73 stated that: *“You should be adding more beaches where vehicles are banned”*
- 5 submissions mentioned Tokerau Beach. Submission 35 wanted vehicles prohibited except for boat launching. Submission 74 felt that: *“Tokerau Beach from Simon Urlich Rd to the end of Tokerau heading to the shop should have a ban of bikes and cars as nobody hardly sticks to the 30 k limit and this is the end where most people swim and walk.”* Submission 5 advocated a car free area on Tokerau beach. Submission 14 also mentioned Tokerau Beach and East Beach. Submission 79 wanted to have dirt bikes and similar noisy vehicles prohibited on Tokerau Beach, while allowing for other reasonable, quiet vehicle use.
- Submissions 8, 9, 12, 20, 23, 37, 43, and 70 expressed a wish for all beaches to be vehicle-free; some of these mentioned exceptions for emergency vehicles and boat launching.

Submission 80 suggested classifying different beaches or parts of beaches for different uses.

Submissions 6, 14, 20, 24, 28, 59 commented on Te Oneroa-a-Tōhe/90 Mile Beach, which is out of scope as it is managed by the Te Oneroa-a-Tōhe Beach Board, in accordance with the Beach Management Plan.

Staff analysis

The proposed Schedules only include Coopers Beach, and therefore much of this feedback is out of scope. However, it is important for the Council to take note of these views, as they add to the data already gathered through engagement with our communities. Council staff will include all this feedback in the future work that is planned on issues relating to vehicles on beaches.

Staff recommendation

Council staff recommend no changes in response to these submissions.

3.4 Feedback on wider issues relating to vehicles on beaches

A large proportion of the comments received related to the wider picture of how the Council should approach problems with vehicles on beaches.

Submission 1 was in favour of the proposal but felt that it was very weak. They would like to see vehicles prohibited from more beaches – *“prohibit vehicles from 50% of beaches, if that is what 50% of submitters want.”*

Similar sentiments, where members of the public were in favour of the proposal but felt that the Council should create much stronger regulation, including partial or total prohibition of vehicles on beaches, were expressed by submissions 8, 9, 12, 16, 20, 23, 37, and 70.

Submission 80 would like the Council’s work on vehicles on beaches to better reflect the New Zealand Coastal Policy Statement 2010. They believe the Council should develop a more comprehensive mechanism to regulate vehicles on beaches, such as a specific bylaw, in future.

On the other hand, the majority of submissions were against the prohibition of vehicles on beaches, whether in full or in part, for a number of reasons.

Several submissions, both for and against the proposal, wanted to see much better enforcement of road rules and speed limits.

The comments are summarised in Table 2.

Table 2: Table showing summary of issues raised regarding vehicle use on beaches

	Submission number
Reasons given to allow vehicle access on beaches	
Customary rights	21, 28, 50, 57
Gathering kaimoana and fishing	28, 39, 40, 48, 51, 53, 57, 59, 67, 71, 75, 78
Accessing property that does not have road access	32, 40, 53, 55, 80
Launching boats	35, 37, 48, 53, 76, 78, 80
Recreational purposes	41, 51, 59, 61, 64, 71
Accessibility – wheelchair users and mobility issues	75
Tourism	78
Reasons given to prohibit or restrict vehicle access on beaches	
Protecting the environment – wildlife, dunes, birds, degradation of the beach, damage to fisheries	9, 28, 72, 79, 80
Unsafe vehicle use – racing, dangerous driving, reckless behaviour	14, 16, 20, 23, 35, 59, 73, 79
Public safety – reports of danger and injury to people and pets from vehicles	20, 35, 73
Recreational purposes	35, 79, 80
Noise and nuisance	79, 80
Protection of wāhi tapu	80
Stronger enforcement of road rules required	3, 5, 6, 12, 14, 23, 35, 63, 72, 73, 75, 78
Speed limits should be reviewed/changed/policed	14, 20, 53, 63, 74, 78, 80
Only some types of vehicles should be allowed	43, 74, 79, 80

Staff Analysis

As stated in the proposal, the present piece of work is to continue the status quo by placing provisions allowing the Council to restrict or prohibit vehicles on beaches, as scheduled, into the new Road Use Bylaw, and to continue the prohibition on Coopers Beach. Most of this wider feedback is out of scope at present. Reserves will

be addressed under the new Reserves Bylaw, and speed limits will be addressed in the review of the Speed Limits Bylaw.

Enforcement issues were raised by several submitters, and this will also form part of ongoing work on bylaw implementation.

A significant amount of community feedback was generated on issues related to vehicle use on beaches. While much of this feedback is out of scope for the present proposal, it is part of the wider work planned for this issue in future. Council staff will make use of this input from the community as they continue this work.

Staff Recommendation

Council staff recommend no changes in response to this submission.

4 Analysis and recommendations regarding the bylaw wording

The following section analyses the submissions made about specific parts of the draft provisions regulating vehicles on beaches to be included in the new Road Use Bylaw and recommends how to address these submissions in the bylaw.

4.1 Clauses not referred to in submissions

No submissions were made about the wording of the following provisions regulating vehicles on beaches to be inserted in the draft Road Use Bylaw, namely:

- Clause 6 Interpretation – additional definitions of “authorised agency”, “beach”, and “enforcement officer”
- Part 8: Vehicles on Beaches
 - Clause 30 Vehicles prohibited
 - Clause 32 Exemptions
 - Clause 33 Persons to provide details
 - Clause 34 Offenders to leave beach
- Schedules – additional subclauses to be added to
 - Clause 41 Roads that have vehicle restrictions or prohibitions
 - Clause 43 Amendment of Schedules
- Schedule 6 – Beaches or parts of beaches upon which vehicles are prohibited
- Schedule 7 – Beaches or parts of beaches upon which vehicles are restricted

4.2 Clause 31 Restriction on the use of vehicles on beaches

Clause 31 prohibits vehicles on beaches or parts of beaches identified in schedule 7 at times and dates listed in the schedule.

Submission received

Submission 80 approved of Clauses 30 and 31, but recommended that additional types of restrictions were needed. These included speed limits, prohibitions on specific types of vehicles, controls on animals, and other measures to protect the environment.

Staff analysis

Submission 80 suggested that the Council should amend the provisions restricting the use of vehicles to allow for further restrictions to be scheduled. Some of these suggestions are out of scope (e.g. speed limits, animal controls). However, Council staff consider that one additional restriction is appropriate. This is a suggested amendment to allow for the Council to specify in Schedule 7 that a restriction on vehicles will apply to a certain class or description of vehicle.

This amendment to Clause 31 will give the Council a mechanism to address problems with vehicles on beaches in a more targeted manner. For example, a restriction could be placed on vehicles which are creating noise, damage, or nuisance, such as motorbikes, while still allowing other vehicle use, such as boat launching or gathering kaimoana. In effect, this amendment allows the Council to implement restrictions that have a lower impact, since a targeted restriction will affect a smaller number of activities than a blanket restriction on all types of vehicles. Therefore, this amendment does not represent a significant change to Clause 31, but rather a refinement.

It is important to note that no beaches are included in Schedule 7 in this proposal. Any addition of a beach or part of a beach to Schedule 7 will require engagement and consultation with affected parties.

Staff recommendation

Clause 31 be amended by:

1. Deleting the word "All".
2. Adding a new subclause (2) as follows:

"(2) Where schedule 7 specifies that the restriction on vehicles on any beach or part of a beach should be limited to a class or description of vehicles, the restriction in subclause (1) only applies to vehicles of that class or description."

Tracked changes to the clause as recommended

31 Restriction on the use of vehicles on beaches

- (1) ~~All~~ Vehicles are prohibited on any beach or any part of a beach which is identified in schedule 7 during the times and or dates listed in the schedule unless an exemption has been provided under clause 32 of this bylaw.
- (2) Where schedule 7 specifies that the restriction on vehicles on any beach or part of a beach should be limited to a class or description of vehicles, the restriction in subclause (1) only applies to vehicles of that class or description.

APPENDIX 1 – LIST OF SUBMISSIONS RECEIVED

Number	Organisation
1-15	Individual submissions
16	Oke Bay Lodge
17-26	Individual submissions
27	Te Paatu
28-63	Individual submissions
64	C Foster Diggerworxs
65-71	Individual submissions
72	Kiwi Coast Northland
73-78	Individual submissions
79	Group submission (group of neighbours)
80	Vision Kerikeri

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2023] NZEnvC 133

IN THE MATTER OF appeals under clause 14 of the Schedule 1
of the Resource Management Act 1991

BETWEEN

BAY OF ISLANDS MARITIME
PARK INCORPORATED
(ENV-2019-AKL-000117)

CEP SERVICES MATAUWHI
LIMITED
(ENV-2019-AKL-000111)

D LOURIE
(ENV-2019-AKL-000128)

ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND INCORPORATED
(ENV-2019-AKL-0000127)

Appellants

AND

NORTHLAND REGIONAL
COUNCIL

Respondent

Court: Environment Judge J A Smith sitting alone under s 279 of the
Act

Last case event: 23 June 2023

Date of Order: 28 June 2023

Date of Issue: 28 June 2023

pNRP – Topic 1B – Vehicles on beaches



CONSENT DETERMINATION

A: Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

(1) the appeals are allowed in accordance with Annexure A to this Determination; and

(2) this Determination resolves the appeals relating to Rule C.1.5.1. No appeals remain outstanding in relation to Topic 1B – Vehicles on beaches.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This Determination relates to appeals against Northland Regional Council's decision on the Proposed Regional Plan for Northland, which have been categorised into Topic 1B – Vehicles on beaches. The appeals relate to a single rule: Rule C.1.5.1 Use of vehicles on beaches and other activities that disturb the foreshore and seabed – permitted activity.

[2] The appeals were lodged by:

- (a) Bay of Islands Maritime Park Incorporated (**Bay of Islands Maritime Park**);
- (b) CEP Services Matauwhi Limited (**CEP Services**);
- (c) Mr D Lourie; and
- (d) Royal Forest and Bird Protection Society of New Zealand Incorporated (**Forest & Bird**).

[3] The following people gave notice of their intention to become parties to one or more of the appeals under section 274 of the Act and have signed the memorandum of the parties dated 23 June 2023:

- (a) Patuharakeke Te Iwi Trust Board;
- (b) Minister of Defence;
- (c) Forest & Bird;
- (d) Channel Infrastructure NZ Limited;
- (e) Far North District Council;
- (f) Whangarei District Council;
- (g) Federated Farmers of New Zealand;
- (h) Messrs Dean Farmer, Christopher Mace and Philip Thornton;
- (i) Minister of Conservation;
- (j) Northport Limited;
- (k) Lucklaw Farm Limited; and
- (l) Northpower Limited.

[4] By memorandum of counsel dated 5 March 2021, Channel Infrastructure NZ Limited withdrew its section 274 interest in Rule C.1.5.1.

Background

[5] Rule C.1.5.1 was originally included on Topic 1 – Coastal Activities.

[6] By memorandum dated 30 October 2020, the Council advised that hearing time was likely to be required in relation to Topic 1, Vehicles on Beaches sub-topic.

[7] By directions dated 2 November 2020, Vehicles on Beaches was split out to become Topic 1B.

[8] Topic 1B was set down for a two-day hearing commencing 30 April 2021.

[9] In March 2021, the hearing set down for Topic 1B was adjourned due to appeals against the Environment Court decision¹ on the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F). The

¹ *Bay of Islands Maritime Park Inc v Northland Regional Council* [2021] NZEnvC 6.

appeals were heard by the High Court on 6 September 2021. The High Court decision was issued on 18 November 2021.² Time was given for the parties to consider the implications of the High Court decision and discuss how Topics 1B and 15 would be progressed in light of the High Court decision.

[10] By memorandum dated 18 February 2022, the Council advised that it considered there was value in further direct discussions in relation to Topic 1B, taking into account the NES-F.

[11] By memorandum dated 17 March 2022, the Court was advised that the Council was proposing to prepare a revised version of Rule C.1.5.1 for comment by the parties. The Council was undertaking work to inform a revised rule, which required detailed input from the Council's GIS mapping team.

[12] The Court was advised in April 2022, that progress with Topic 1B had been constrained by the capacity of the Council's GIS team during the first quarter of the year.

[13] On 30 June 2022, the Council circulated a revised version of Rule C.1.5.1 to the parties for the review and comment.

[14] By memorandum dated 29 July 2022, the Court was advised the parties felt discussions were headed in the right direction and that resolution without a hearing was possible and desirable.

[15] By memorandum dated 30 September 2022, the Council reported that outstanding issues between the parties had been narrowed and the parties were moving closer to resolution on the issues.

[16] By memorandum dated 16 December 2022, the Council advised that it had circulated several revisions to the proposed provisions. Finalisation of maps was subject to further feedback from the parties, an expert ecological report commissioned by the Council, and ongoing consultation with tangata whenua. The Council requested hearing time be allocated in the third quarter of 2023 in the event

² *Minister of Conservation v Manganhai Harbour Restoration Society Inc* [2021] NZHC 3113.

that dispute remained on the provisions or maps. It was not practical to set the matters down for hearing given the workload of the Court, but directions were made for further discussion, possible mediation and a further reporting date. Mediation was not required.

[17] On 13 March 2023, a judicial conference was convened to discuss outstanding matters on the Proposed Northland Regional Plan.

[18] The Minute dated 21 March 2023, records that Topic 1B appeared to have reached the stage where most of the matters have been agreed but the matter was still not able to be finalised. The Council was directed to circulate its preferred wording, and parties were given an opportunity to advise whether they disagreed with the Council's preferred wording. A timetable to progress the matter to hearing was also directed.

[19] By memorandum dated 12 May 2023, the Council advised it had circulated its preferred wording. No party indicated they disagreed with the Council's preferred wording and on this basis the Council advised agreement had been reached on the provisions. The only remaining issue in Topic 1B was the draft maps identifying where vehicles are permitted to drive on beaches and where they are restricted. The timetable for exchange of evidence was vacated and further time was given for filing of consent documents, including maps.

[20] Consent documents were filed on 23 June 2023.

Rule C.1.5.1 Use of vehicles on beaches and other activities that disturb the foreshore and seabed – permitted activity

[21] Rule C.1.5.1 provides that the use of a vehicle on the foreshore and seabed and any associated disturbance of the foreshore and seabed, or the disturbance of the foreshore and seabed by any activity not the subject of any other rule in the Proposed Plan are permitted activities, provided that certain conditions are met.

[22] Rule C.1.5.1 was appealed by:

- (a) Bay of Islands Maritime Park, who sought that the Proposed Plan delineate specific areas of the foreshore and seabed where vehicles are not

permitted.³ The rationale for Bay of Islands Maritime Park’s appeal is that the conditions in Rule C.1.5.1 do not make it clear to vehicle drivers where vehicles should or should not be used on the foreshore and seabed;

- (b) CEP Services, who sought to replace the reference to “Significant Ecological Area” and/or “Significant Bird Area” in the rule with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds”.⁴ CEP Services’ appeal point has been resolved as part of a separate topic in the Proposed Plan;⁵
- (c) Mr Lourie, who sought to amend Rule C.1.5.1 so that it is a non-complying activity, instead of a permitted activity.⁶ The rationale for Mr Lourie’s appeal is that (among other things) Rule C.1.5.1 does not relate to any purpose or objective, is not supported by a risk assessment, does not give effect to the New Zealand Coastal Policy Statement 2010 (**NZCPS**) and undermines the ability to invoke the RMA to protect beaches from vehicles; and
- (d) Forest & Bird, who sought to amend Rule C.1.5.1 so that vehicles on beaches, other than for an emergency response, are:
 - (i) not permitted in Significant Ecological Areas (**SEAs**); and
 - (ii) in areas not identified as significant, restricted during the bird breeding period of 1 August and 31 March (inclusive).

The rationale for Forest & Bird’s appeal is that:

- (i) the rule is uncertain and it is not clear how a person driving a vehicle would know whether they complied with the conditions;
- (ii) the rule does not provide adequate protection to birds during the breeding period; and

³ Bay of Islands Maritime Park Incorporated – Notice of Appeal – 17 June 2019 at [19].

⁴ CEP Services Matauwhi Limited – Notice of Appeal – 17 June 2019 at [8.15].

⁵ Consent Order for Significant Ecological Areas and Significant Bird Areas dated 12 May 2023: *CEP Services Matauwhi Ltd v Northland Regional Council* [2023] NZEnvC 93.

⁶ David Lourie – Notice of Appeal – 24 June 2019.

- (iii) the rule is contrary to Policy 11 Indigenous biological diversity and Policy 15 Natural features and natural landscapes of the NZCPS and Policy 4.4.1 Maintaining and protecting significant ecological areas and habitats of the Regional Policy Statement for Northland 2016 (**RPS**).

[23] The parties have discussed Rule C.1.5.1 at length through an iterative process involving mediation and subsequent discussions. The provisions that have been agreed by the parties have been revised to give effect to Policy 20 Vehicle access of the NZCPS and achieve the objectives of the Proposed Plan. The agreed provisions attempt to strike an appropriate balance between enabling access to the coastal marine area (**CMA**) by vehicles, and controlling the potential impacts that Policy 20 of the NZCPS seeks to prevent from occurring.

[24] The parties have agreed to divide Rule C.1.5.1 into two rules: one dealing with the use of vehicles on beaches (new Rule C.1.5.1A) and the other with other activities that disturb the foreshore and seabed (Rule C.1.5.1).

New Rule C.1.5.1A Conditional use of vehicles on the foreshore and seabed – permitted activity

[25] As noted above, the parties have agreed to introduce a new rule: Rule C.1.5.1A Conditional use of vehicles on the foreshore or seabed – permitted activity.

[26] Rule C.1.5.1A provides that the use of a vehicle on the foreshore or seabed and any associated disturbance of the foreshore and seabed is a permitted activity, provided that certain conditions are met. Emergency service vehicles providing an emergency response are excluded from the rule, to recognise the importance of such services.

[27] The effect of new Rule C.1.5.1A is that if one of the conditions is not complied with, resource consent will be required to use a vehicle on the foreshore or seabed under Rule C.1.5.12 Dredging, deposition and disturbance activities – discretionary activity.

[28] The conditions include:

- (a) condition (1): vehicle access to the foreshore is only via authorised or existing lawful vehicle access points;
- (b) condition (2): there is no disturbance of or damage to indigenous or migratory bird nesting or roosting sites;
- (c) condition (3): there is no disturbance of, or damage to, a mapped Historic Heritage area;
- (d) condition (4): there is no disturbance of, or damage to, a mapped Site or Area of Significance to tangata whenua (**SSTW**);
- (e) condition (5): vehicles do not drive over pipi or cockle beds except where necessary for the use, maintenance, repair or removal of infrastructure, and do not damage or destroy other shellfish beds;
- (f) condition (6): vehicles do not drive over saltmarsh, saltmeadow, saltmeadow turfs, seagrass meadows, mangroves or mangrove aerial roots and do not damage or destroy other indigenous vegetation;
- (g) condition (7): vehicles do not drive on the foreshore or seabed within a mapped Vehicle Exclusion Zone (**VEZ**) unless the activity is for one of the list activities set out in the condition (VEZs are addressed further below); and
- (h) condition (8): the activity complies with C.1.8 Coastal works general conditions, with the exception of C.1.8(5) (which requires disturbance activities to only be carried out during certain hours of the day).

[29] The parties have also agreed to:

- (a) Include a note which provides that district councils may also have bylaws that control the use of vehicles on beaches as well as dunes, and that compliance with Rule C.1.5.1A does not remove the need to comply with all relevant bylaw provisions. This draws the plan user's attention to the fact that other bylaw provisions may apply to activities that may disturb the foreshore and seabed;
- (b) Include the following footnotes:
 - (i) Footnote 1 which applies to the chapeau of the rule and clarifies that emergency vehicles providing an emergency response includes

but is not limited to surf lifesaving operations, law enforcement operations and works undertaken by a local authority or network utility operator for the purpose of emergency works as defined by sections 330 or 330B of the RMA;

- (ii) Footnote 2 which applies to condition (5) and clarifies that the rule does not apply to the use of vehicles in the harvesting of Te Oneroa-a-Tōhē (GLM9) mussel spat off Te Oneroa-a-Tōhē (90 Mile Beach);
- (iii) Footnote 3 which applies to condition (6) and provides that a “seagrass meadow” is defined as a contiguous area of seagrass of 10m² or more; and
- (iv) Footnotes 4 and 5, which define what “closest practicable point” means in the context of condition (7) of the rule. It provides that what is the “closest practicable point” will require an assessment of each vehicle access point and the nearest area of reasonable access to the foreshore or coastal water. It is not anticipated to involve using vehicles to travel hundreds of metres to the “best” or preferred area.

[30] The parties consider that the amendments are appropriate because:

- (a) Requiring that vehicle access to the foreshore is only via authorised or existing lawful vehicle access points will prevent vehicles accessing from anywhere on the beach and will limit the likelihood of harm or damage to the environment;
- (b) The inclusion of conditions (2), (5) and (6) will ensure that the values of those habitats are protected when vehicles are used on the foreshore or seabed. The conditions give effect to the NZCPS, including:
 - (i) Policy 11 of the NZCPS, which requires that adverse effects on indigenous biodiversity in the coastal environment are avoided, remedied or mitigated; and
 - (ii) Policy 20 of the NZCPS, which requires that use of vehicles on beaches, foreshore and seabed are controlled where harm to

ecological systems or indigenous flora and fauna (for example, bird habitats or breeding areas and shellfish beds) might result;

- (c) The inclusion of conditions (3) and (4) will ensure that the values of mapped Historic Heritage areas and SSTW are protected from the use of vehicles. These conditions are consistent with Policy 20 of the NZCPS, which requires that use of vehicles on beaches, foreshore and seabed are controlled where damage to historic heritage and sites of significance to tangata whenua might result;
- (d) The requirement that the activity complies with C.1.8 Coastal works general conditions is consistent with a number of other coastal rules in the Proposed Plan.⁷ The parties consider it is appropriate to exclude C.1.8.(5) from the condition. Condition (5) provides that disturbance activities must only be carried out during the hours between sunrise and sunset or 6.00am and 7.00pm, whichever occurs earlier, and on days other than public holidays (subject to a few exceptions). For certain activities requiring vehicle use on beaches (such as temporary military training activities undertaken by the New Zealand Defence Force), it is impractical to require compliance with those time limits;
- (e) The inclusion of the footnotes appropriately clarify certain matters relating to the provisions and provide certainty to plan users;
- (f) The effect of condition (7) is that vehicles must not drive on the foreshore or seabed within a mapped VEZ (described further below), unless the activity meets one of the following exceptions:
 - (i) access to property where the only access is via the coastal marine area; or
 - (ii) the launching or retrieval of vessels at the closest practicable point along the foreshore from the vehicle access; or
 - (iii) the use, maintenance, repair or removal of an authorised structure (including hard protection structures, aids to navigation structures and infrastructure structures); or
 - (iv) conservation and reserve management activities undertaken by or formally on behalf of the Department of Conservation or local authority in accordance with its statutory functions; or

- (v) environmental monitoring or data collection undertaken by consent holders, the regional council, district councils, universities and research institutes (such as NIWA), or the authorised agents; or
- (vi) kaitiakitanga monitoring in accordance with Mātauranga Māori; or
- (vii) access to customary marine title group where the only access is via the coastal marine area; or
- (viii) attending to a rescue of stranded marine mammals; or
- (ix) burial of dead animals or marine mammals (including the customary processing of carcasses before burial) by the Department of Conservation, tangata whenua, a local authority or their delegated agents; or
- (x) clearance of pipe outlets, artificial water courses and tidal stream mouths; or
- (xi) removal or recovery of wrecked vessels; or
- (xii) dune and coast restoration, enhancement and maintenance projects undertaken by a registered coast care group or group authorised by the territorial authority; or
- (xiii) access for people with mobility disabilities (while displaying a mobility card) to the closest practicable point along the foreshore from the vehicle access, or
- (xiv) surf life-saving operations, and law enforcement operations.

The parties consider that inclusion of condition (7) is appropriate as it strikes a balance between enabling public access to the CMA by vehicle for the above exceptions, while controlling the likelihood of harm or damage to the values set out in Policy 20 of the NZCPS.

Vehicle Exclusion Zone mapping

[31] The parties have agreed to include a new mapped layer (Vehicle Exclusion Zones) in the Proposed Plan which identifies locations where vehicle use on the foreshore or seabed is not permitted. Vehicles must not be driven on the foreshore or seabed within a mapped VEZ, unless the activity is for one of the exceptions set out in Rule C.1.5.1A(7) or resource consent is obtained.

[32] The VEZ maps can be viewed on the Council's GIS viewer at the link below. The maps are also shown in **Annexure B** to this memorandum (albeit at a wider scale). <https://nrcgis.maps.arcgis.com/apps/webappviewer/index.html?id=21b4117f24eb4e0395f7f8fd6afd9392>

[33] The VEZ mapping is supported by expert ecological reports undertaken by Mr Vince Kerr commissioned by the Council⁷ and a report by Boffa Miskell in relation to Puheke Beach.⁸ The mapping is based on areas where significant values are at risk of harm by vehicle use, including:

- (a) SEAs, which include:
 - (i) Indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System;
 - (ii) areas of indigenous vegetation and habitats of indigenous fauna, that are significant using the assessment criteria in Appendix 5 of the Regional Policy Statement for Northland; and
 - (iii) areas set aside for full or partial protection of indigenous biodiversity under other legislation;
- (b) Outside of SEAs, areas include:
 - (i) significant habitats of indigenous biodiversity under Policy 11 of the NZCPS;
 - (ii) threatened and at risk indigenous bird species that regularly use coastal areas or are in high numbers; and
 - (iii) important shellfish beds.

[34] The map layer applies to the strip from mean high-water springs to generally around 50 metres seaward of mean high-water springs. The management of the full beach area, including dunes and adjoining areas, requires broader inter-agency management, including operational management (e.g., signage). The Council is willing

⁷ Kerr, V: Ecological Impacts of Vehicles on Intertidal Habitats Within Coastal Ecological Significant Areas, April; 2023 and Kerr, V: Hokianga Harbour – Ecological Considerations of Vehicles on Beaches, April 2023. The Council's methodology for mapping VEZ is set out in: Northland Regional Council Vehicle Exclusion Zone – Mapping Methodology Report, September 2022.

⁸ Boffa Miskell: Puheke Beach Ecological Values, November 2022.

to work with other regulators in that space to achieve integrated management and ensure that the full beach area is managed effectively.

[35] As indicated previously, the Council has worked to consult with tangata whenua on the draft VEZ maps and has incorporated some of the feedback it has received on the maps into the final mapping.

[36] Other than as noted below, the parties consider that inclusion of the VEZ mapped layer is appropriate as it is consistent with the direction provided in Policy 20 of the NZCPS, which requires the identification of areas where and times when recreational vehicular use on beaches, foreshore and seabed may be permitted, without a likelihood of any adverse effects set out in the policy occurring.

Patuharakeke Te Iwi Trust Board

[37] Patuharakeke Te Iwi Trust Board (**the Trust Board**) is a s 274 party to the Forest & Bird appeal. Patuharakeke rohe extends from the northern point of Mangawhai harbour at Paepae-o-Tu / Bream Head in the south, north along Te Akau / Bream Bay including Waipu and Ruakaka estuaries, around Te Poupouwhenua / Marsden Point and west up Whangarei Terenga Paraoa / Whangarei harbour to Mata and Oakleigh. While the Trust Board acknowledges that the VEZ maps (and the accompanying rules) are a significant improvement on the decisions version of the Proposed Plan, the Trust Board does not agree that the proposed maps are sufficient within Patuharakeke rohe as they do not apply the VEZ to the full extent of Bream Bay required to appropriately manage the effects of vehicles on this beach (as set out in the Hapu Environmental Management Plan).

[38] While acknowledging the jurisdictional restrictions of the RMA for a regional plan, the Trust Board's concerns relate to habitat, taonga species and historic heritage sites where the values, relationships and effects of vehicle use cross agency boundaries and jurisdictional lines. Taking a pragmatic approach however the Trust Board has signed the consent memorandum so as not to block the settlement reached with all parties and to lock in the benefits associated with the VEZ mapping (and the accompanying rules) immediately. The Trust Board will continue to collaborate with the district and regional councils, DOC and community groups on inter-agency work

to protect historic heritage and biodiversity from the effects associated with vehicles on the beach in Bream Bay.

Rule C.1.5.1 Activities that disturb the foreshore and seabed – permitted activity

[39] The agreed amendments to Rule C.1.5.1 include:

- (a) Excising the references and conditions relating to vehicle use (which includes the title of the rule, the chapeau, conditions (3), (4), (7) and (8) and the note at the end of the rule);
- (b) In condition (1), the inclusion of reference to “saltmarsh, saltmeadow turfs and mangroves” and “no damage or destruction of other indigenous vegetation”. The effect of these changes are that disturbance activities are permitted, provided that there is no disturbance of, or damage to, those habitats;
- (c) The inclusion of a new condition requiring that there is no disturbance of or damage to indigenous or migratory bird nesting or roosting sites, which will ensure that birds are adequately protected from disturbance activities when they are nesting or roosting;
- (d) The inclusion of a note at the end of the rule which provides that Rule C.1.5.1 does not apply to disturbance of the seabed or foreshore arising from the lawful harvesting of any plant or animal. This has been included to clarify that the rule is not intended to apply to the harvesting of shellfish;
- (e) The deletion of the reference to “all relevant conditions” in condition (8) of Rule C.1.5.1, as sought by Forest & Bird. Forest & Bird sought that this amendment apply to a number of other rules, which have already been resolved as part of separate topics in the Proposed Plan.⁹ By deleting the reference to “all relevant conditions”, activities are required to comply with all Coastal works general conditions. The parties consider that the amendments are appropriate as they are consistent with the Topic 1 – Moorings and anchorages Consent Order issued by the Court on 20 May 2020.

⁹ Topic 1 – Moorings and anchorages.

Other amendments – Rule C.1.8 Coastal works general conditions

[40] Rule C.1.8 sets out the general conditions that apply to activities when referred to in coastal rules set out in section C.1 Coastal activities of the Proposed Plan. The parties have agreed to make some minor consequential amendments to condition (7) of Rule C.1.8, which provides:

(7) All machinery, equipment and materials used for the activity must be removed from the foreshore and seabed at the completion of the activity. Additionally, vehicles and equipment must be in a good state of repair and free of any fuel or oil leaks. Refuelling must not be carried out in the coastal marine area and for the duration of the activity, no vehicle or equipment is to be left in a position where it could come into contact with coastal water.

[41] The amendments include:

- (a) minor formatting changes, which the parties consider improve the readability of the condition; and
- (b) the inclusion of “except where contact with coastal water is necessary to undertake the activity” at the end of the condition. The parties consider that the amendment appropriately recognises that for some activities, such as temporary military training activities undertaken by the New Zealand Defence Force, vehicles may need to come into contact with coastal water to complete an amphibious landing.

Consideration

[42] The Court has now read and considered the consent memorandum of the parties dated 23 June 2023.

[43] In terms of an assessment under section 32AA of the Act, as noted above, the proposed changes were discussed at significant length between the parties through an iterative process involving mediation and subsequent discussions. The parties consider that the proposed changes are the most appropriate way to achieve the objectives of the Proposed Plan as well as give effect to the relevant higher-order documents, including the RPS and the NZCPS.

[44] I conclude the agreement reached has struck a balance between enabling vehicles and activities that disturb the foreshore and seabed access to the CMA and

protection against damage, harm and disturbance. I agree that splitting into vehicles and activities is practical.

[45] The conditions provide for protection of valuable and/or sensitive ecological systems and parts of the environment. The conditions will limit the likelihood of damage and harm.

[46] The footnotes provide clarity for plan users. The agreement reached has provided for the local level in C.1.5.1A by including a note that Council bylaws may apply.

[47] I am satisfied the VEZ mapping is based on expert reports and recognises areas where significant value are at risk of harm by vehicles use. It is acknowledged by the parties that management of the whole of beach will require inter-agency management.

[48] The Court acknowledges the Trust Board's view that the proposed maps are not sufficient within the Patuharakeke rohe, but they have taken a pragmatic approach and recognised the limits of the RMA for a regional plan.

[49] It is important that the changes are consistent with other consent determinations that have been issued.

[50] This is a complex issue which is likely to become more significant as beach use increases and environmental changes affect seashore species. This is an exhaustive attempt by the parties to commence that balancing between public access and use and environmental and cultural impacts.

[51] I commend all parties on seeking to lock in protections for major issues while recognising the need for multiple agencies to address these issues in due course. We commend the suggestion of seeking unified controls across regional and district boundaries. The Court acknowledges the wide range of legitimate reasons to access the foreshore but also the damage careless or wilful vehicle misuse can do to critical foreshore values. Any outcome can only be part of a broader consultative and iterative process. This outcome is a good start to that process.

[52] I am of the view that the changes to C.1.8 provide for a logical exception.

[53] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order; and
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[54] I am satisfied that the agreement reached is one that represents the various interests of the parties. I conclude the parties have taken a balanced and pragmatic approach. I conclude the agreed amendments are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan. Overall, I consider the sustainable management purpose and the other relevant requirements of the Act are broadly met.

Further comments

[55] The Council and the Court understand that Topic 1B is the final outstanding topic in the Proposed Plan and there are no outstanding appeal points against the Proposed Plan. Parties have been given an opportunity to advise of any outstanding appeal points, but it is the Courts expectation that in issuing this Determination the appeals against the Proposed Plan will be at an end.

[56] I commend the parties on their indefatigable efforts to resolve these matters in the face of covid restraints, policy and regulatory change.

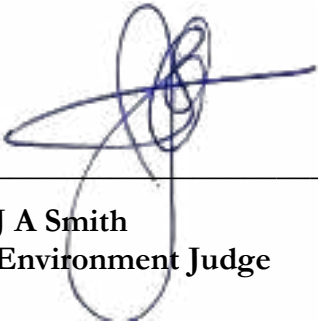
[57] I wish to thank Mike Doesburg, Emmalene Lake and the team at Northland Regional Council for the regular updates, redrafting, and meetings with parties to advance matters. I acknowledge the efforts of other key parties to finalise this plan

and move matters forward during regular Covid lockdowns and continuing many hearings online.

Outcome

[58] Therefore, the Court orders, by consent that:

- (a) the appeals are allowed in accordance with Annexure A to this Determination;
- (b) the Determination resolves the appeals relating to Rule C.1.5.1. No appeals remain outstanding in relation to Topic 1B – Vehicles on beaches; and
- (c) there are no issues as to costs.



J A Smith
Environment Judge



ANNEXURE A

Key:

Yellow highlight (~~underlined~~ or ~~strike through~~) = amendments agreed between the parties as part of Topic 1B – Vehicles on beaches.

Grey highlight (~~underlined~~ or ~~strike through~~) = amendments proposed as part of a separate topic in the Proposed Plan (Rule C.1.8). These amendments are agreed and have been recorded on draft consent documents which were filed with the Court on 9 June 2023.

C.1.5.1A Conditional use of vehicles on the foreshore or seabed – permitted activity

The use of a vehicle on the foreshore or seabed and any associated disturbance of the foreshore and seabed is a permitted activity, provided that apart from emergency services vehicles providing an emergency response:¹

- 1) vehicle access to the foreshore is only via [authorised](#) or existing lawful vehicle access points, and
- 2) there is no disturbance of or damage to indigenous or migratory bird nesting or roosting sites, and
- 3) there is no disturbance of, or damage to, a mapped [Historic Heritage area](#) (refer | Maps | Ngā mahere matawhenua), and
- 4) there is no disturbance of, or damage to, a mapped Site or Area of Significance to tangata whenua (refer | Maps | Ngā mahere matawhenua), and
- 5) vehicles do not drive over pipi or cockle beds except where necessary for the use, maintenance, repair or removal of infrastructure, and do not damage or destroy other shellfish beds,² and
- 6) vehicles do not drive over saltmarsh, saltmeadow, saltmeadow turfs, seagrass meadows³, mangroves or mangrove aerial roots (pneumatophores) and do not damage or destroy other [indigenous vegetation](#), and

¹ including but not limited to surf lifesaving operations, law enforcement operations and works undertaken by a local authority or network utility operator (in relation to any project or work that it is approved as a requiring authority) for the purpose of emergency works as defined by sections 330 or 330B of the Resource Management Act 1991.

² This rule does not apply to the use of vehicles in the harvesting of Te Oneroa-a-Tōhē (GLM9) mussel spat off Te Oneroa-a-Tōhē (90 Mile Beach).

³ For the purpose of condition 6, a “seagrass meadow” is a contiguous area of seagrass of 10m² or more.

- 7) vehicles do not drive on the foreshore or seabed within a mapped Vehicle Exclusion Zone (refer I Maps | Ngā mahere matawhenua) unless the activity is for one of more of the following listed activities:
- a) access to property where the only access is via the coastal marine area;
or
 - b) the launching or retrieval of vessels at the closest practicable point⁴ along the foreshore from the vehicle access; or
 - c) the use, maintenance, repair or removal of an authorised structure (including hard protection structures, aids to navigation structures and infrastructure structures); or
 - d) conservation and reserve management activities undertaken by or formally on behalf of the Department of Conservation or local authority in accordance with its statutory functions; or
 - e) environmental monitoring or data collection undertaken by consent holders, the regional council, district councils, universities and research institutes (such as NIWA), or the authorised agents; or
 - f) kaitiakitanga monitoring in accordance with Mātauranga Māori; or
 - g) access to customary marine title group where the only access is via the coastal marine area; or
 - h) attending to a rescue of stranded marine mammals; or
 - i) burial of dead animals or marine mammals (including the customary processing of carcasses before burial) by the Department of Conservation, tangata whenua, a local authority or their delegated agents; or
 - j) clearance of pipe outlets, artificial water courses and tidal stream mouths; or
 - k) removal or recovery of wrecked vessels; or
 - l) dune and coast restoration, enhancement and maintenance projects undertaken by a registered coast care group or group authorised by the territorial authority; or
 - m) access for people with mobility disabilities (while displaying a mobility card) to the closest practicable point⁵ along the foreshore from the vehicle access, or
 - n) surf life-saving operations, and law enforcement operations, and
- 8) the activity complies with C.1.8 Coastal works general conditions, with the exception of C.1.8(5).

⁴ What is the “closest practicable point” will require an assessment of each vehicle access point and the nearest area of reasonable access to the foreshore or coastal water. It is not anticipated to involve using vehicles to travel hundreds of metres to the “best” or preferred area.

⁵ What is the “closest practicable point” will require an assessment of each vehicle access point and the nearest area of reasonable access to the foreshore or coastal water. It is not anticipated to involve using vehicles to travel hundreds of metres to the “best” or preferred area.

Notes:

District councils may also have bylaws that control (including prohibiting) the use of vehicles on beaches as well as dunes. The taking and using of vehicles within reserves is also regulated (including prohibited) under the Northland Reserves Bylaws 2007. Compliance with Rule C.1.5.1A does not remove the need to comply with all relevant bylaw provisions.

For the avoidance of doubt this rule covers the following RMA activities:

- Disturbance of any foreshore or seabed by a vehicle or an activity not the subject of any other rule in this Plan (s12(1)).
- The use of vehicles on the foreshore or seabed (s12(3)).

C.1.5.1 ~~Use of vehicles on beaches and other~~ Activities that disturb the foreshore and seabed – permitted activity

The ~~use of a vehicle on the foreshore or seabed and any associated disturbance of the foreshore and seabed, or the~~ disturbance of the foreshore and seabed by any activity not the subject of any other rule in this Plan, are permitted activities, provided:

- 1) ~~apart from emergency services vehicles providing an emergency response,~~ there is no disturbance of, or damage to, ~~saltmarsh, saltmeadow turfs, mangroves,~~ seagrass meadows ~~within mapped Significant Ecological Areas (refer I Maps | Ngā mahere matawhenua) and outside these areas, there is no and no damage or~~ destruction of ~~other indigenous vegetation or~~ shellfish beds ~~or indigenous vegetation,~~ and
- 2) the activities do not involve the exclusive occupation of space in the coastal marine area, and
- 3) ~~vehicles must ensure minimal disturbance of the foreshore and seabed, and~~
- 4) ~~apart from emergency services vehicles providing an emergency response, there is no disturbance of or damage to indigenous or migratory bird nesting or roosting sites, and~~
- x) ~~there is no disturbance of or damage to indigenous or migratory bird nesting or roosting sites, and~~
- 5) there is no disturbance of, or damage to, a mapped Site or Area of Significance to tangata whenua (refer I Maps | Ngā mahere matawhenua), and
- 6) there is no disturbance of, or damage to, a mapped **Historic Heritage area** (refer I Maps | Ngā mahere matawhenua), and
- 7) ~~apart from emergency services vehicles providing an emergency response, vehicle access to the foreshore is only via authorised access points, and~~
- 8) ~~all relevant conditions of the activity complies with~~ C.1.8 Coastal works general conditions, ~~are complied with, and~~
- 9) ~~apart from emergency services vehicles providing an emergency response, vehicles do not drive over pipi or cockle beds.~~

For the avoidance of doubt this rule covers the following RMA activities:

- Disturbance of any foreshore or seabed by ~~a vehicle or~~ an activity not the subject of any other rule in this Plan (s12(1)).
- ~~The use of vehicles on the foreshore or seabed (s12(3)).~~

Note:

~~District councils may also have bylaws that control (including prohibit) the use of vehicles on beaches. Compliance with those provisions is also required.~~

Notes:

This rule does not apply to disturbance of the seabed or foreshore arising from the lawful harvesting of any plant or animal (s12(1)).

C.1.8 Coastal works general conditions

...

- 7) All machinery, equipment and materials used for the activity must be removed from the foreshore and seabed at the completion of the activity. Additionally:
- a) vehicles and equipment must be in a good state of repair and free of any fuel or oil leaks; and
 - b) Refuelling must not be carried out in the coastal marine area, except:
 - i) where there is a functional or operational need to refuel equipment or machinery onboard a vessel, in which case refuelling must be undertaken using leak-proof containers and contained spill capture areas (which prevent any fuel entering the coastal marine area); or
 - ii) where there is a functional or operational need to refuel equipment or machinery on a structure in the coastal marine area, in which case refuelling must be undertaken using leak-proof containers and bunds to prevent any fuel entering the coastal marine area; and
 - c) for the duration of the activity, no vehicle or equipment is to be left in a position where it could come into contact with coastal water, except where contact with coastal water is necessary to undertake the activity.

...

I Maps | Ngā mahere matawhenua


Vehicle Exclusion Zone	<p>This map layer identifies locations where vehicle use on the foreshore or seabed is not permitted. The mapping is based on areas where significant values are at risk of harm by vehicle use, including:</p> <ul style="list-style-type: none">• Significant Ecological Areas, which include:<ul style="list-style-type: none">○ indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System;○ areas of indigenous vegetation and habitats of indigenous fauna, that are significant using the assessment criteria in Appendix 5 of the Regional Policy Statement for Northland; and
-------------------------------	---

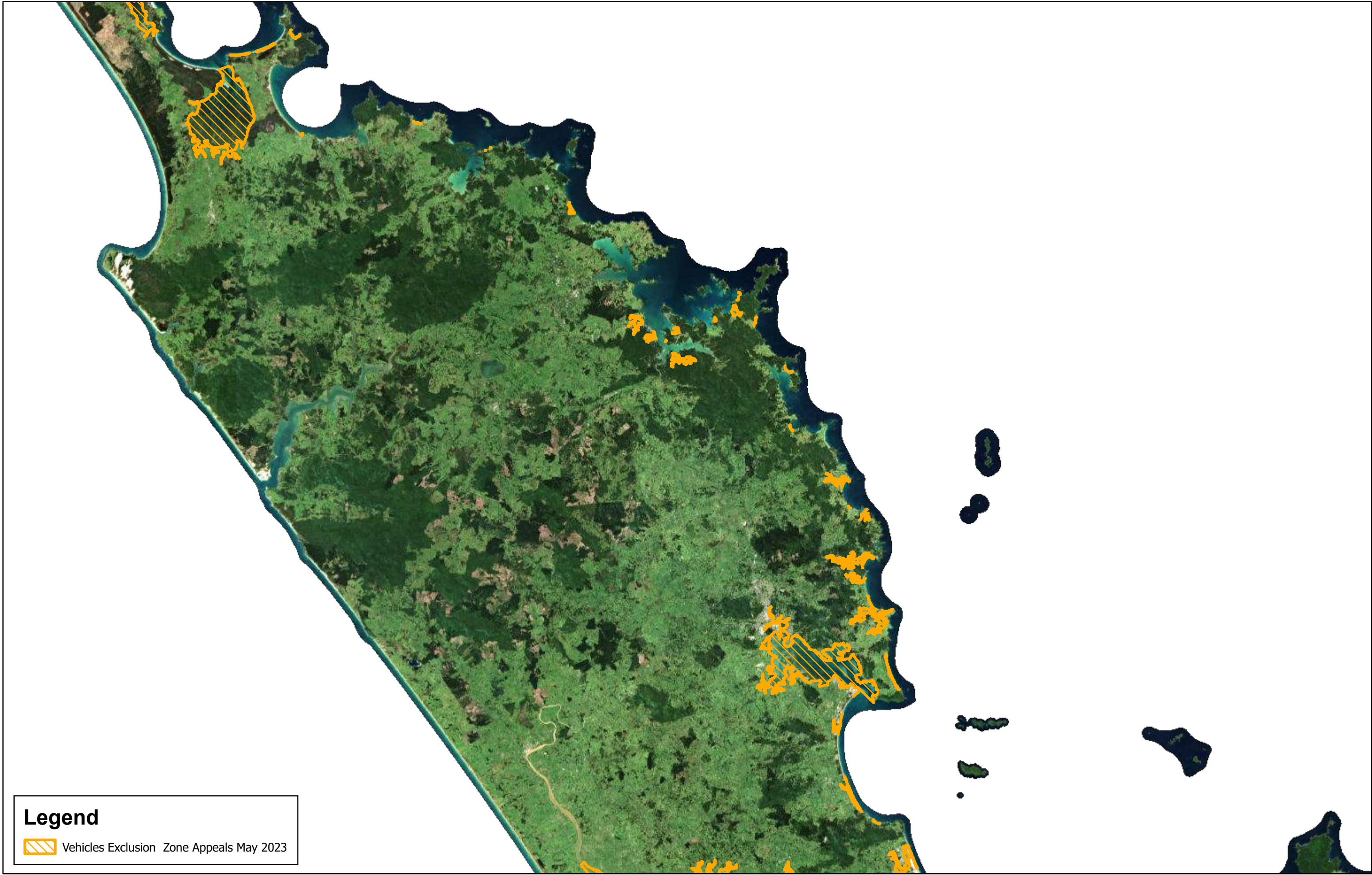
	<ul style="list-style-type: none"> ○ areas set aside for full or partial protection of indigenous biodiversity under other legislation. ● Outside of <u>Significant Ecological Areas</u>, areas include: <ul style="list-style-type: none"> ○ significant habitats of indigenous biodiversity under Policy 11 of the NZCPS; ○ threatened and at risk indigenous bird species that regularly use coastal areas or are in high numbers; and ○ important shellfish beds. <p>Vehicles must not drive on the foreshore or seabed within a mapped Vehicle Exclusion Zone, unless the activity is for one of the exceptions set out in Rule C.1.5.1A Conditional use of vehicles on the foreshore or seabed – permitted activity.</p> <p>The map layer applies to the strip from mean high-water springs to 50 metres seaward of mean high-water springs.</p> <p>The Vehicle Exclusion Zone mapping is based on the following reports:</p> <ul style="list-style-type: none"> ● <i>Kerr, V: Ecological Impacts of Vehicles on Intertidal Habitats Within Coastal Ecological Significant Areas, April, 2023;</i> ● <i>Kerr, V: Hokianga Harbour – Ecological Considerations of Vehicles on Beaches, April 2023;</i> ● <i>Boffa Miskell: Puheke Beach Ecological Values, November 2022; and</i> ● <i>Northland Regional Council Vehicle Exclusion Zone – Mapping Methodology Report, September 2022.</i>
--	---

ANNEXURE B: VEHICLE EXCLUSION ZONE MAPS

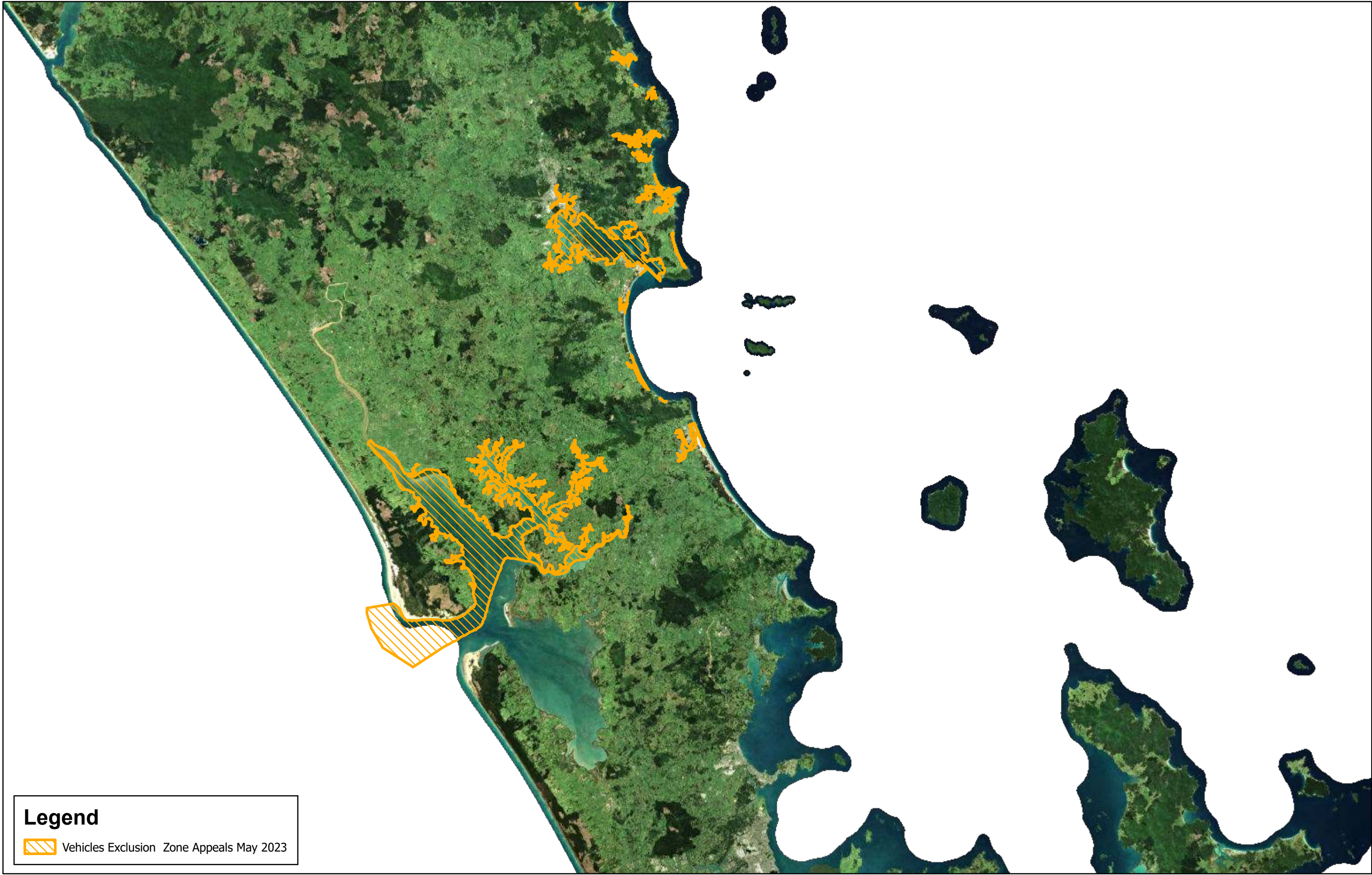


Legend


 Vehicles Exclusion Zone Appeals May 2023



Legend
Vehicles Exclusion Zone Appeals May 2023



Legend

 Vehicles Exclusion Zone Appeals May 2023

The New Oxford Dictionary of English

EDITED BY
Judy Pearsall

CHIEF EDITOR, CURRENT ENGLISH DICTIONARIES
Patrick Hanks

CLARENDON PRESS • OXFORD
1998

contribution

USAGE There are two possible pronunciations of the word contribute, one which puts the stress on the -tri- and one which puts it on the -con-. The first is held to be the standard, correct pronunciation even though the pronunciation with stress on the con- is older.

contribution ► noun a gift or payment to a common fund or collection; the agency is mainly financed from voluntary contributions.

► the part played by a person or thing in bringing about a result or helping something to advance; the major contribution of social scientists to the understanding of political life. ► an article or other piece of writing submitted for publication in a collection.

- ORIGIN late Middle English (denoting a tax or levy); from late Latin contributio(n)-, from Latin contributus 'bring together, add' (see CONTRIBUTE).

contributor ► noun a person or thing that contributes something, in particular:

► a person who writes articles for a magazine or newspaper. ► a person who donates to a cause. ► a causal factor in the existence or occurrence of something.

contributory ► adjective 1 playing a part in bringing something about; smoking may be a contributory cause of lung cancer.

2 (of a pension or insurance scheme) operated by means of a fund into which people pay; contributory benefits.

► noun (pl. -ies) Law, Brit. a person liable to give money towards the payment of a wound-up company's debts.

- ORIGIN late Middle English (in the sense 'contributing to a fund'); from medieval Latin contributorius, from Latin contributus 'added' (see CONTRIBUTION).

contributory negligence ► noun (mass noun) Law failure of an injured party to act prudently, considered to be a contributory factor in the injury which he or she has suffered.

con trick ► noun informal term for CONFIDENCE TRICK.

contrite /'kɒntraɪt/ ► adjective feeling or expressing remorse at the recognition that one has done wrong; a contrite tone.

- DERIVATIVES contritely adverb, contriteness noun.

- ORIGIN Middle English: from Old French contrit, from Latin contritus, past participle of conterere 'grind down, wear away', from con- 'together' + terere 'rub'.

contrition ► noun (mass noun) the state of feeling remorseful and penitent.

► (in the Roman Catholic Church) the repentance of past sins during or after confession; prayers of contrition.

- ORIGIN Middle English: via Old French from late Latin contritiō(-e), from contrit- 'ground down', from the verb conterere (see CONTRITE).

contrivance ► noun (mass noun) the use of skill to bring something about or create something, especially when this results in a sense of strain and artificiality; the story is told with an absence of contrivance or literary device.

► (count noun) a thing which is created skilfully and inventively to serve a particular purpose; an assortment of electronic equipment and mechanical contrivances. ► (count noun) a device, especially in literary or artistic composition, which gives a sense of artificiality.

contrive /kən'traɪv/ ► verb (with object) create or bring about (an object or a situation) by deliberate use of skill and artifice; his opponents contrived a cabinet crisis | (with reflexive) you contrived to be alone with me despite the supervisor.

► (with object) manage to do something foolish or create an undesirable situation; he contrived to flood the flat three times.

- DERIVATIVES contrivable adjective, contriver noun.

- ORIGIN Middle English: from Old French contreuve-, stressed stem of controuver 'imagine, invent', from medieval Latin contropare 'compare'.

contrived ► adjective deliberately created rather than arising naturally or spontaneously; the carefully contrived image of party unity.

► giving a sense of artificiality; the ending of the novel is too neat and contrived.

control ► noun 1 (mass noun) the power to influence or direct people's behaviour or the course of events; the whole operation is under the control of a production manager | the situation was slipping out of her control.

► the restriction of an activity, tendency, or phenomenon; crime control. ► the power to restrain something, especially one's own emotions or actions; she was goaded beyond control. ► (count noun) (often controls) a means of limiting or regulating something; growing controls on local spending. ► (count noun) a switch or other device by which a machine is regulated; the volume control. ► (with reflexive) the place where a particular item is verified; passport control.

► the base from which a system or activity is directed; astronomical controls. ► (count noun) a high card that will prevent the opponents from establishing a particular suit. ► (count noun) Compare sheet for CONTROL KEY.

2 a group or individual used as a standard of comparison for checking the results of a survey or experiment; placid activity was higher in patients with the disease than in the controls.

3 (count noun) a member of an intelligence organization who personally directs the activities of a spy.

► verb (controlled, controlling) 1 (with object) determine the behaviour or supervise the running of; he was appointed to control the company's marketing strategy.

► maintain influence or authority over; there were never enough masters to control the unruly mobs of boys. ► limit the level, intensity, or numbers of; he had to control his temper. ► (control oneself) remain calm and reasonable despite provocation. ► regulate (a mechanical or scientific process); the airflow is controlled by a fan. ► (with object) (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

2 (with object) (control for) take into account (an extraneous factor that might affect the results of an experiment); no attempt was made to control for variations | (with object) controlled (of a drug) restricted by law in respect of use and possession; a sentence for possessing controlled substances.

prolonged, public, and heated; security laws passed to tackle terrorism caused controversy | (count noun) the amusement ended a protracted controversy.

- ORIGIN late Middle English: from Latin controversia, from controversus 'turned against, disputed', from contrō- (variant of contra- 'against') + versus, past participle of vertere 'to turn'.

USAGE There are two possible pronunciations of the word controversy: one puts the stress on the con- and the other puts it on the -trov-. The second pronunciation, though common, is still widely held to be incorrect in standard English.

controvert ► verb (with object) deny the truth of (something); subsequent work from the same laboratory controverted these results.

► argue about (something); the stress in the article have been controverted.

- DERIVATIVES controvertible adjective.

- ORIGIN mid 15th cent.: from Latin controversus (see CONTROVERSY), on the pattern of pairs such as adversus (see ADVERSE), adversere (see ADVERT).

contumacious /kɒntjə'meɪʃəs/ ► adjective ardent or law (especially of a defendant's behaviour) stubbornly or wilfully disobedient to authority.

- DERIVATIVES contumaciously adverb.

- ORIGIN late 16th cent.: from Latin contumax, contumax (perhaps from con- 'with' + tumere 'to swell') + -IOUS.

contumacy /'kɒntjəməsi/ ► noun (mass noun) archaic or Law stubborn refusal to obey or comply with authority, especially disobedience to a court order or summons.

- ORIGIN Middle English: from Latin contumacia 'inflexibility', from contumax (see CONTUMACIOUS).

contumelious /kɒntjə'mi:ʃəs/ ► adjective archaic (of behaviour) scornful and insulting; insolent.

- DERIVATIVES contumeliously adverb.

- ORIGIN late Middle English: from Old French contumelios, from Latin contumeliosus, from contumelia 'abuse, insult' (see CONTUMELY).

contumely /'kɒntjə'mi:ʃəl/ ► noun (pl. -ies) (mass noun) ardent insolent or insulting language or treatment; the church should not be exposed to gossip and contumely.

- ORIGIN late Middle English: from Old French contumelie, from Latin contumelia, perhaps from con- 'with' + tumere 'to swell'.

contuse /kən'tju:z/ ► verb (with object) (usu. be contused) Medico injure (a part of the body) without breaking the skin, forming a bruise.

- ORIGIN late Middle English: from Latin contus- 'beaten, crushed', from the verb contundere, from con- 'together' + tendere 'beat, thump'.

contusion /kən'tju:ʒən/ ► noun a region of injured tissue or skin in which blood capillaries have been ruptured; a bruise.

- ORIGIN late Middle English: from French, from Latin contusio(n)-, from the verb contundere (see CONTUSE).

conundrum /kən'ʌndrəm/ ► noun (pl. conundrums) a confusing and difficult problem or question; one of the most difficult conundrums for the experts.

► a question asked for amusement, typically one with a pun in its answer; a riddle.

- ORIGIN late 16th cent.: of unknown origin, but first recorded in a work by Thomas Nashe, as a term of abuse for a crank or pedant, later coming to denote a whim or fancy, also a pun. Current senses date from the late 17th cent.

conurbation /kən'ʌbɪjən/ ► noun an extended urban area, typically consisting of several towns merging with the suburbs of a central city.

- ORIGIN early 20th cent.: from CON- 'together' + Latin urbs, urb- 'city' + -ATION.

conure /kən'ju:ə/ ► noun a Central and South American parakeet that typically has green plumage with patches of other colours.

► Aracaja, Pyrrhura, and other genera, family Psittacidae, numerous species.

- ORIGIN mid 19th cent.: from modern Latin conurus (former genus name), from Greek kōnos 'cone' + surus 'tail'.

NZCPS 2010 guidance note

Policy 20: Vehicle access



Dated October 2018

Contents

<i>Policy 20 Vehicle access</i>	1
<i>Overview of the policy</i>	2
<i>Rationale</i>	2
<i>Related objectives, policies and provisions</i>	4
NZCPS 2010.....	4
Resource Management Act 1991.....	7
Other legislation.....	8
<i>Origins of the policy</i>	11
<i>Implementing the policy</i>	11
Situations where there is risk of harm.....	12
Assessment of management options.....	14
Making appropriate provision for vehicle access.....	16
Recreational vehicle use on beaches.....	16
<i>Resources</i>	17
Relevant case law.....	17
Examples of non-statutory strategies.....	17
Examples of plan provisions.....	18
Examples of other methods.....	19
Reports, websites and additional information.....	22
<i>Glossary of terms and definitions</i>	24
NZCPS 2010 glossary.....	24
Other definitions.....	24

Policy 20 Vehicle access

- (1) Control use of vehicles, apart from emergency vehicles, on beaches, foreshore, seabed and adjacent public land where:
 - (a) damage to dune or other geological systems and processes; or
 - (b) harm to ecological systems or to indigenous flora and fauna, for example marine mammal and bird habitats or breeding areas and shellfish beds; or
 - (c) danger to other beach users; or
 - (d) disturbance of the peaceful enjoyment of the beach environment; or
 - (e) damage to historic heritage; or
 - (f) damage to the habitats of fisheries resources of significance to customary, commercial or recreational users; or
 - (g) damage to sites of significance to tangata whenua;
might result.
 - (2) Identify the locations where vehicular access is required for boat launching, or as the only practicable means of access to private property or public facilities, or for the operation of existing commercial activities, and make appropriate provision for such access.
 - (3) Identify any areas where and times when recreational vehicular use on beaches, foreshore and seabed may be permitted, with or without restriction as to type of vehicle, without a likelihood of any of (1)(a) to (g) occurring.
-

Disclaimer: This guidance is intended as general guidance on implementing the New Zealand Coastal Policy Statement 2010 and has been written primarily for local government practitioners. It does not substitute for professional advice where and when that is needed and should not be taken as providing legal advice or the Crown's legal position. This guidance is not official government policy.

Overview of the policy

Policy 20 of the New Zealand Coastal Policy Statement 2010 (NZCPS 2010) directs control of the use of vehicles on beaches, the foreshore, the seabed and adjacent public land where there is a risk of harm to particular values in the coastal environment.

This policy does not preclude the use of vehicles¹ on beaches, the foreshore, the seabed and adjacent public land. Rather, it seeks to provide for vehicle access where this is appropriate – for example, for boat landing when and where vehicle access will not cause adverse effects or prevent access by emergency vehicles.²

‘Vehicle’ is not defined in the NZCPS 2010. The Land Transport Act 1998 and the Transport Act 1962 define ‘vehicle’ as a contrivance that is equipped with wheels, tracks or revolving runners on which it moves or is moved. They also cover what is and is not included, with things such as cars, utes, four-wheel drives, trucks, tractors, bulldozers, trailers, motorbikes and bikes included, and things such as watercraft (boats, jet skis, etc.) not included. Amphibious vehicles (which are capable of going on land and sea) would be covered while they were on the beach. Since Policy 20 also includes controlling vehicles on the foreshore and seabed, this definition may not capture all vehicles of interest (for example, jet skis) and so councils may wish to expand the definition of ‘vehicle’.

Readers of this policy guidance note should also refer to the ‘NZCPS 2010 Implementation Guidance Introductory note’,³ which contains general information and guidance that is important for implementing the objectives and policies in the NZCPS 2010. The policy guidance on vehicle access can be found [here](#).

Rationale

There is a long tradition of vehicle use in New Zealand’s coastal environment. Changes in transport infrastructure and the types of vehicles available present new issues for the coast.

There is growing awareness that in some situations access by certain types of vehicles can cause major damage to coastal ecosystems and habitats, such as destroying dune systems, flattening and destroying sea life in the intertidal area, and damaging shellfish beds, bird nesting and roosting areas, and seagrass. In some circumstances, vehicle use can also threaten the safety or enjoyment of other users, sites of significance to tangata whenua and historic sites, as well as break down natural defences against coastal hazards.

¹ Refer to the ‘Glossary of terms’ at the end of this guidance note for a definition of ‘vehicle’.

² Refer to the ‘Glossary of terms’ for a definition of ‘emergency vehicle’.

³ <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/guidance/introductory-note.pdf>

For the purposes of this guidance, cyclists can be treated differently because bicycles cause less damage than other/motorised vehicles.

Policy 20 also recognises the need for the provision of vehicle access where it is particularly required, such as going from A to B to launch a boat and then removing the vehicle.

Related objectives, policies and provisions

This section covers the links between the various provisions of the NZCPS 2010, the Resource Management Act 1991 (RMA) and other legislation in terms of vehicle access.

NZCPS 2010

Implementing Policy 20 of the NZCPS 2010 requires consideration of all of the NZCPS 2010 objectives and policies. Objectives 2, 4 and 6, and Policies 4, 7, 11, 13, 15, 17 and 19 of the NZCPS 2010 are particularly relevant to Policy 20, with Policy 19: Walking access being especially important. These links are considered below.

Key related objectives and policies	Other related objectives	Other related policies
Objectives 2, 4 and 6 Policies 4, 7, 11, 13, 15, 17 and 19	Objective 1	Policies 2, 3, 14, 16 and 18

Objective 2

Objective 2 seeks to preserve the natural character of the coastal environment and protect natural features and landscapes. Policy 20 is one way of achieving this objective because vehicle access can impact on natural character and natural features and landscapes.

Objective 4

Objective 4 seeks to maintain and enhance public open space and recreational opportunities in the coastal environment by:

- recognising that the coastal marine area (CMA) is an extensive area of public space for the public to use and enjoy
- maintaining and enhancing public walking access to and along the CMA
- recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the CMA advances inland.

Policy 20 is important to the implementation of Objective 4 because vehicle access can provide access to the coast but may negatively impact on people's peaceful enjoyment of the coastal environment.

Objective 6

Objective 6 focuses on enabling people and communities to provide for their social, economic and cultural wellbeing and their health and safety. Vehicle access on the coast can be important to community wellbeing but can also compromise this where vehicles could endanger people or harm the environment. Policy 20 directs a range of considerations that are important to the implementation of Objective 6.

Policy 4: Integration

Policy 4 requires the integrated management of natural and physical resources in the coastal environment and any activities that affect that environment. It emphasises the need for the coordinated management of activities that cross administrative boundaries and a collaborative approach to management. Integration is relevant to Policy 20 because vehicle use can span the administrative boundaries of different management agencies.

Policy 7: Strategic planning

Policy 7 promotes the use of strategic planning for the coastal environment when preparing regional policy statements, regional plans and district plans. It also promotes the importance of identifying values that are under threat or at significant risk from adverse cumulative effects. Policy 7 requires local authorities to consider where, how and when to provide for future residential, rural residential, settlement, urban development and other activities in the coastal environment, and to identify where particular activities and development are inappropriate.

Vehicle access considerations are expected to be relevant to strategic processes that affect coastal planning and management. The identification of issues relating to vehicle use requirements, resources impacted and appropriate management responses will assist in the implementation of both policies.

Policy 11: Indigenous biological diversity (biodiversity)

Policy 11 provides policy direction on matters relevant to protecting indigenous biodiversity in the coastal environment. Some of these matters will be affected by vehicle use on beaches, the foreshore, the seabed and adjacent public land, as vehicles can harm ecological systems, as well as native plants and animals and their habitats. Implementation of Policies 11 and 20 can often be closely related.

Policy 13: Preservation of natural character

Policy 13 provides direction to preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use and development. Local authorities are directed to assess the natural character of a region or district and to establish priorities for management. Policies 20 and 13 can often be closely related because vehicle access can impact on the natural character of the coastal environment.

Policy 15: Natural features and natural landscapes

Policy 15 addresses section 6(b) of the RMA in relation to the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development. Landscapes and natural character are closely related, so landscape and

natural character assessments are often undertaken at the same time and often by the same practitioners. Policies 20 and 15 can often be closely related because vehicle access can impact on natural features and natural landscapes.

Policy 17: Historic heritage identification and protection

Policy 17 seeks to protect historic heritage in the coastal environment from inappropriate subdivision, use and development. Decision-makers are directed to identify, assess and record coastal historic sites. Implementation of Policies 17 and 20 can often be closely related because vehicle access may cause potential damage to historic heritage.

Policy 19: Walking access

Policy 19 recognises people's expectation for free, safe and generally unrestricted walking access to and along the coast. Walking access and vehicle use on beaches, the foreshore, the seabed and adjacent public land are often closely related. Vehicle access can be important for providing walkers with access. However, sometimes the two are in conflict and require management. There are also circumstances when public access is not appropriate, such as when ecological or cultural values require protection.

Resource Management Act 1991⁴

Public access to and along the CMA is a matter of national importance under the RMA (refer to section 6(d)). However, maintaining and enhancing amenity values also needs to be given particular regard to in decision-making (refer to section 7(c)) and people's amenity values may be impacted by vehicle access to and along the coast.

The provisions of the RMA for esplanade areas are relevant to discussions about vehicle access to and along the coast, particularly:

- section 77: rules about esplanade reserves on subdivisions and road stopping
- section 229: purposes of esplanade reserves and strips
- section 232: creation of esplanade strips.

Esplanade reserves and strips run alongside the mean high water mark and must be a certain width. They may include sensitive areas such as dune systems, native flora and the habitat of native fauna. It is possible to exclude the use of vehicles across and along such reserves or strips (through the instrument creating an esplanade strip⁵ and the Reserves Act 1977, under which esplanade reserves are managed).

The RMA includes support for public access to and along the coast, and also allows councils to restrict and manage access in some areas and cases. The provisions that support public access have to be read alongside the other provisions of the RMA. Just because public access is a matter of national importance does not necessarily mean that access by vehicles is appropriate, particularly when other matters of national importance, such as significant habitat (section 6(c)) and historic heritage (section 6(f)), are at risk. The RMA is concerned with the effects of vehicle on the environment.

Regional councils and unitary authorities have core responsibilities for coastal management. Some regional coastal plans outline rules for the use of vehicles on beaches (the foreshore part of beaches within the CMA). Many regional councils and unitary authorities also have provisions in their regional plans about the use of vehicles, some of which relate to the CMA (i.e. the foreshore).

District councils also play a key role in managing the coastal environment and vehicles on beaches. Therefore, integrated management is important.

It should be noted that there are no longer any unformed roads in New Zealand.

⁴ <http://www.legislation.govt.nz/act/public/1991/0069/latest/DLM230265.html>

⁵ <http://www.legislation.govt.nz/act/public/1991/0069/latest/DLM237255.html>

Other legislation

A number of other statutory controls are also relevant to the management of vehicles on beaches, the foreshore, the seabed and adjacent public land. Therefore, implementing Policy 20 can also require careful consideration of the provisions of other Acts, as no further controls may be required under section 32 of the RMA if controls are sufficient under these Acts. The Acts listed below are of particular relevance.

Land Transport Act 1998⁶

The Land Transport Act 1998 (LTA) outlines the general requirements and primary responsibilities of participants in the land transport system. This includes the use of vehicles on beaches as this Act treats beaches as roads. The LTA governs the behaviour of the individual vehicle and is concerned with health and safety.

The New Zealand Transport Authority sets default speed limits for all roads and the process for changing these limits. The New Zealand Police is responsible for law enforcement on roads under the LTA. As this Act treats beaches as roads, the rules of the road apply, including speed limits and rules about the licensing of vehicles and drivers, alcohol use, seatbelts, helmets, and driving behaviour. The Police can also prosecute for criminal behaviour and bylaw breaches.

In some cases, territorial local authorities are the road controlling authorities for beaches, meaning that they can pass bylaws (under section 22AB(1)(f) of the LTA) to control vehicles on beaches (including where they can or cannot go) and can set speed limits under the Land Transport: Setting of Speed Limits Rule 2017. The actual wording of the Act is that 'A road controlling authority may make any bylaw it thinks fit ... for prohibiting or restricting the use of vehicles on beaches'. Some territorial authorities have set speed limits on all beaches in their area.

Conservation Act 1987⁷

The purpose of the Conservation Act 1987 is to promote the conservation of New Zealand's natural and historic resources. The Department of Conservation (DOC) has a leading role in the conservation of New Zealand's natural and historic heritage, including specially protected areas and conservation areas. Lands and waters managed under the Conservation Act will often have access provisions that are specific to those resources.

DOC (through the Minister and Director-General of Conservation) has responsibilities under the Conservation Act (and its Schedule 1 Acts) that include protecting archaeological sites, marine mammals and other wildlife, such as native birds; managing conservation land, reserves and stewardship land on the coast; and protecting and generally caring for habitats and ecosystems. No vehicles are

⁶ <http://www.legislation.govt.nz/act/public/1998/0110/latest/DLM433613.html>

⁷ <http://www.legislation.govt.nz/act/public/1987/0065/latest/DLM103610.html>

generally allowed off formed roads. Also, it is an offence to interfere with a fish spawning site under section 26ZJ of the Conservation Act.

Reserves Act 1977⁸

The Reserves Act 1977 provides for the acquisition of land for reserves, and the classification and management of reserves. The purposes of the Reserves Act are to:

- provide for the preservation and management, for the benefit and enjoyment of the public, of areas possessing some special feature or values, such as recreational use, wildlife, landscape amenity or scenic value
- ensure, as far as practicable, the preservation of representative natural ecosystems or landscapes and the survival of indigenous species of flora and fauna, both rare and commonplace
- ensure, as far as practicable, the preservation of access for the public to the coastline, islands, lakeshore and riverbanks, and to encourage the protection and preservation of the natural character of these areas.

DOC and local authorities own and/or manage coastal reserves under the Reserves Act. In some locations, DOC has bylaws that restrict vehicles, such as the Waikanae Scientific Reserve Bylaws Pursuant to section 106(3) of the Reserves Act, which states that 'No person unless authorised by the Regional Conservator may drive or ride a vehicle (whether propelled by mechanical power or not and including bicycles) within the reserve'. DOC has the powers to enforce this type of bylaw.

Marine Mammals Protection Act 1978⁹

The Marine Mammals Protection Act 1978 sets out the administration and management of marine mammals and marine mammal sanctuaries. This includes provisions about how close people can go to marine mammals. Vehicle access is relevant because vehicles may harm ecological systems and get too close to marine mammals.

Wildlife Act 1953¹⁰

The Wildlife Act 1953 sets out the protection and control of wild animals and birds and the management of game, including wildlife refuges. Under this Act, it is an offence to 'disturb or molest wildlife'. This is relevant to vehicle access because vehicles may harm ecological systems and disturb or molest wildlife.

⁸ <http://www.legislation.govt.nz/act/public/1977/0066/latest/DLM444305.html>

⁹ <http://www.legislation.govt.nz/act/public/1978/0080/latest/DLM25111.html>

¹⁰ www.legislation.govt.nz/act/public/1953/0031/latest/DLM276814.html

Local Government Act 2002¹¹

The Local Government Act 2002 (LGA) sets out the purpose, role and functions of regional and territorial authorities. It includes the power to make bylaws, including those relating to vehicle access. Bylaws are typically enforced by the Police rather than council staff as authorised enforcers.

Marine and Coastal Area (Takutai Moana) Act 2011¹²

The Marine and Coastal Area (Takutai Moana) Act 2011 (MCAA) recognises, through the protection of public rights of access, navigation and fishing, the importance of the common marine and coastal area – for its intrinsic worth and for the benefit, use and enjoyment of the New Zealand public.

This is relevant to discussions around vehicle access because the MCAA enables customary marine titles (CMTs) and protected customary rights (PCRs), which may affect access to and along the coast. Also, under section 120(a), the Minister of Conservation may make regulations for the safety and protection of members of the public who exercise rights of access or navigation; and under section 121(a), the Minister of Conservation may also, by notice in the Gazette, make bylaws for prohibiting or regulating the use or parking of vehicles in a specified part of the common marine and coastal area. Section 121(a) is a last resort provision because of the provisions in section 120(2). Regional coastal plans should control access and the MCAA fall back cannot be relied upon. Also, the MCAA should not be used as a reason for the council not taking action under section 32 of the RMA.

Treaty of Waitangi Settlement legislation

Treaty of Waitangi Settlement legislation has been established at the conclusion of negotiations between iwi and the Crown to settle historic grievances.¹³ Settlements may involve the coastal environment and may be given effect to through statutory acknowledgments, joint governance of land and waters or the transfer of ownership of land to iwi. These matters can be relevant to the implementation of Policy 20. The Office of Treaty Settlement provides information on the status of settlements in progress and those claims that have been settled.¹⁴

¹¹http://www.legislation.govt.nz/act/public/2002/0084/latest/DLM170873.html?search=ts_act%40bill%40regulation%40deemedreg_local+government_resel_25_a&p=1

¹² <http://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213131.html>

¹³ <http://www.waitangitribunal.govt.nz/>

¹⁴ <https://www.justice.govt.nz/maori-land-treaty/office-of-treaty-settlements/>

Origins of the policy

The New Zealand Coastal Policy Statement 1994 addressed walking access and vehicle access together in all policies that related to public access. By contrast, the NZCPS 2010 directs councils to take a more strategic approach to the provision and management of public access, and differentiates between issues relating to the management of public open space (Policy 18), walking access (Policy 19) and vehicle access (Policy 20).

The RMA places importance on providing public access to and along the coast, and a wide range of public users, including vehicle users, have high expectations around access and recreational opportunities along the coast. The potential for a range of adverse effects from vehicle use, including cumulative effects on both tangible and intangible values (such as damaged vegetation and reduced enjoyment by other users), has not always been appreciated or explicitly recognised.

In considering matters relating to vehicle use, the Board of Inquiry¹⁵ found that controls on vehicle access and use in the CMA were necessary where harm may occur. Specific concerns related to effects on the natural and physical environment, and damage to systems, processes and sensitive sites, such as the use of vehicles in wetlands (which could be adjacent to public land).

The Board also saw value in encouraging decision-makers to identify locations where vehicle access and/or use could occur without consequences to important coastal values, and where it is needed for specific reasons. Emergency vehicles were identified as warranting a specific exemption from any controls to vehicle use to and along the coast.

Consideration of the differences between walking and vehicle access included a growing recognition of:

- the conflict between vehicles and other coastal uses, such as walking access
- the different effects of vehicle use and other public uses
- the need for specific management tools to plan and manage vehicle use.

The Board of Inquiry¹⁶ recommended clear policy direction to address these conflicts. The roles of this policy included:

- identification of the range of potential impacts from vehicle use
- requiring local authorities to undertake strategic assessments of vehicle use on coastal public land and where it should be provided, taking into account those potential impacts.

For further information, refer to the 'Board of Inquiry Report, Volume 2' (pp. 263–268).¹⁷

¹⁵ <https://www.doc.govt.nz/get-involved/have-your-say/all-consultations/2010/new-zealand-coastal-policy-statement/board-of-inquiry/>

¹⁶ <https://www.doc.govt.nz/documents/getting-involved/consultations/closed-consultations/nzcps/NZCPS-2008-board-of-inquiry-vol-2.pdf>

¹⁷ <https://www.doc.govt.nz/documents/getting-involved/consultations/closed-consultations/nzcps/NZCPS-2008-board-of-inquiry-vol-2.pdf>

Implementing the policy

In addition to the guidance provided here, readers should refer to the 'NZCPS 2010 Implementation Guidance Introductory note',¹⁸ which covers matters of relevance to giving effect to the NZCPS 2010.

Policy 20 recognises that vehicle use on the coast can conflict with other important values, such as ecological and geological values, and with the provision of walking access to and along the coast (see also the guidance note on NZCPS Policy 19: Walking access). Policy 20 directs that where such conflicts exist, vehicle use should be controlled.

The means by which this management is achieved will depend on the context and the issues relating to the particular situation. Emergency vehicles can have access even though they may have the adverse effects that are listed in Policy 20(1). Policy 20(2) acknowledges that there is good reason for vehicle access for some reasons (e.g. boat launching and access to private property) and that provisions need to be made for such access. Policy 20(3) allows for general vehicle use if there are no adverse effects as identified in Policy 20(1).

Situations where there is risk of harm

Policy 20 identifies particular values and uses where vehicles on beaches, the foreshore, the seabed and adjacent public land may cause harm, and where management control is required. These circumstances are discussed further below.

- **Geological systems and processes – Policy 20(1)(a)**

Dunes serve an important ecosystem function, acting as a buffer between the land and sea to ameliorate the effects of large waves during storm events. Native dune plants play a vital role in binding sand and stabilising dunes, and vehicles can physically degrade dunes and destabilise them by killing these plants. Vehicles can also destabilise gravel beaches by dislodging the gravel and can impact on estuary edges, which are sensitive to change.

The implications of climate change may also be relevant here. For example, sandy shore coastlines are likely to be more resilient if the sand dune vegetation is in good health, but this can be compromised by vehicles. Climate change and vehicle damage can also have cumulative effects on coastal ecosystems. For example, climate change-driven increases in water temperature and sediment delivery as a result of increased storm severity could negatively affect seagrass, as could vehicles driving through this habitat.

- **Ecological systems – Policy 20(1)(b)**

¹⁸ <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/guidance/introductory-note.pdf>

Vehicles can harm ecological systems, such as shellfish areas, fish spawning and nursery areas, bird breeding and nursery areas, fish and bird migration routes and resting areas, and feeding habitats that are important to the survival of some indigenous species, wildlife and indigenous biota.

Shoreline vegetation, such as seagrass and turf communities, can be damaged by vehicles. In addition, vehicle use on beaches can threaten the habitat of threatened species and can adversely affect natural character and landscape. Consequently, stronger controls over vehicle access may be required in order to manage areas with outstanding natural landscape values.

- **Danger to other beach users – Policy 20(1)(c)**

Vehicles can physically endanger other users on the coast, such as walkers, cyclists or picnickers, affecting their safety. Where vehicle access on beaches, the foreshore, the seabed and adjacent public land might result in danger to other beach users, it must be controlled.

- **Disturbance of the peaceful enjoyment of the beach environment – Policy 20(1)(d)**

The peaceful enjoyment of the beach environment is an important value that is vital to New Zealanders' sense of wellbeing. Thus, amenity values need to be considered. Other beach users have the right to use the beach without disturbance or excessive noise. For example, it has been reported that some people, such as walkers and picnickers, avoid certain areas because of vehicles, choosing alternative routes or places.

- **Damage to historic heritage – Policy 20(1)(e)**

Historic heritage in the coastal environment may include structures such as wharves, wharf buildings, lighthouses and shipwrecks; places of special or traditional significance to Māori; archaeological sites; and places of historical or cultural interest and significance, such as wāhi tapu (sacred) areas several of which have been discovered in the dunes. This historic heritage can be damaged by vehicles.

- **Damage to habitats of fisheries resources of significance to customary, commercial or recreational users – Policy 20(1)(f)**

Vehicle access on beaches, the foreshore, the seabed and adjacent public land has the potential to damage the habitats of fisheries resources that are of significance to customary, commercial or recreational users, such as seagrass, cockles and toheroa, and other shellfish and crabs. These impacts include the compacting of sediment, effects on sediment movements and the loss of biogenic materials.

- **Damage to sites of significance to tangata whenua – Policy 20(1)(g)**

Tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations. Coastal sites of significance to tangata whenua can be at risk from the effects of vehicle access. An increased knowledge of places that are culturally important to tangata whenua and vulnerable to vehicle effects can assist with coastal planning and decision-making processes.

In particular, pīngao (golden sand sedge), fisheries, and middens and other archaeological sites can be affected. There is also a spiritual aspect, with tangata whenua potentially feeling that some activities are inappropriate in certain locations.

Emergency vehicles have a right of access to and along beaches where needed, regardless of the damage done.

Assessment of management options

Policy 20 promotes the use of planning tools as part of an integrated and strategic approach to managing the effects of vehicles. Decision-makers are directed to both identify and manage situations where the use of vehicles on beaches, the foreshore, the seabed and adjacent public land will affect particular coastal values.

As with all resource management issues, the management response should reflect the issues to be managed and should be informed by robust technical information. This should include the following steps.

- **Assessment of the area of concern:**

Document all uses and values in the area, and the reasons why vehicles are used in the area and their use is a concern. Considerations need to include vehicle use to access private property or public facilities.

Identify the uses and values of beaches, the foreshore, the seabed and adjacent public land that are sensitive to vehicle impacts. It is also useful to identify those places where vehicle use is required and the available options for making appropriate provision for that access.

- **Assessment of the available tools:**

Assess the types of tools that are available to achieve effective management, such as regional policy statement direction, plan provisions, bylaws and enforcement, as well as non-regulatory measures such as education and collaboration with other agencies and user groups.

Non-RMA tools may also form an important part of the management response. There are several practical steps that can be taken to restrict vehicle access, such

as providing car parks, fencing and erecting physical barriers such as moats or bollards.

- **Consultation with affected parties:**

Work through the development of management approaches in consultation with relevant management agencies and community interests, iwi and individuals, including vehicle users.

Regional policy statement and plan provisions

Plan provisions can include controlling the use and effects of vehicles on beaches, the foreshore, the seabed and adjacent public land. Where practical, plans can include standards, zones or targets, or can specify acceptable limits for change to help determine when activities that are causing adverse cumulative effects should be avoided (see [Policy 7: Strategic planning](#)). Plans, for example, can prohibit vehicle access in areas where there are important outstanding values, such as for the protection of indigenous biological diversity, historic heritage or areas of natural significance.

Where regulatory controls are used, enforcement will be required, which can be a big issue for some councils due to resourcing constraints and concerns for staff safety. Under the LTA, traffic bylaws are enforceable by the Police. However, under the RMA, enforcement officers do not have the power to stop vehicles for traffic offences so the tool used should be appropriate for what is being controlled – traffic offences compared with ‘no-go’ areas.

Options for creating or maintaining adequate provision for vehicle access are discussed below, while examples of existing work by local government to identify vehicle impact concerns are provided in the ‘Resources’ section later in this guidance.

Options outside the RMA – bylaws

There are other options for management that sit outside the RMA. Council bylaws are rules or regulations that are made by a local authority. Bylaws that are made under the LGA are usually made by territorial authorities to:

- protect the public from nuisance
- protect, promote and maintain public health and safety
- minimise the potential for offensive behaviour in public spaces.

In addition, under section 149(2)(b) of the LGA, regional councils have general powers that could include controlling vehicles on land they own or manage through bylaws.

Bylaws can also be made under s22AB(1)(f) of the LTA in relation to vehicles on beaches. A road controlling authority (which can be a council) may make any bylaw it thinks fit for prohibiting or restricting the use of vehicles on beaches.

Use of strategies

Some councils have used tools such as reserve management and public access strategies combined with RMA plan provisions to promote and encourage public access and to manage vehicle access. This is particularly useful in areas where the coastal margin is in public ownership.

Making appropriate provision for vehicle access

Policy 20(2) requires local authorities to identify locations where vehicle access is required for boat launching, as the only practicable means of access to private property or public facilities, or for the operation of existing commercial activities, and to make appropriate provision for such access.

There are situations where vehicle access is needed in the CMA. These matters can be dealt with in RMA plans or through coastal strategies or bylaws.

Many regional plans allow the specific and appropriate use of vehicles within the CMA, with constraints, for such matters as legal enforcement, environmental management, the maintenance of significant infrastructure, the management of stranded marine mammals, etc. This policy requires the identification of locations where this is required but does not impose a requirement on local government to build or form and maintain the vehicle access. However, forming vehicle access can be used as a non-regulatory tool.

Recreational vehicle use on beaches

Policy 20(3) requires local authorities to identify any areas where and times when the use of recreational vehicles may be permitted on beaches, the foreshore and the seabed with or without restriction as to the type of vehicle, without the likelihood of any of the Policy 20(1)(a) to (g) matters occurring.

This can be dealt with through RMA plans and coastal strategies.

Resources

Relevant case law

- *Marlborough District Council v Burkhart Fisheries Limited and Trevor Milton Burkhart* [2017] NZEnvC214

This case was an application for and interim enforcement order under section 320 of the RMA. A bulldozer was being used to drag a boat to a launch site at Chancet Rocks at Ward Beach on the east coast of Marlborough in a manner that was likely to result in the destruction of nests of a threatened species, the banded dotterel (*Charadrius bicinctus*).

- *Titahi Bay Residents Association Incorporated and Graeme A Ebbet v The Wellington Regional Council* [2000] W6/00

This case explored the issue of the extent of the area where vehicles may park on the beach at Titahi Bay. The case examined the environmental effects of parking on the beach, traffic flows, the safety of beach users, the security of cars, alternative parking availability and beach amenity. The Court decided that the presence of cars on the beach was not conducive to the preservation of the natural character of the coastal environment and that it was appropriate for vehicle access on the beach to be restricted.

Examples of non-statutory strategies

Auckland Council Open Space Strategy 2016

www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-policies/Documents/open-space-provision-policy.pdf

This strategy sets out the Auckland Council's open space strategy and links to the Auckland Unitary Plan.

Kapiti Coast District Council Open Space Strategy

www.kapiticoast.govt.nz/contentassets/9d9da2d020904496aa7324a6a9d48f35/open-space-strategy.pdf

This strategy sets out the Kapiti Coast District Council's:

- strategic context for the future management of open space
- priorities and criteria for guiding the management and acquisition of open spaces in the district.

New Plymouth Coastal Strategy

www.newplymouthnz.com/Council/Council-Documents/Plans-and-Strategies/Coastal-Strategy

This strategy sets a guiding image of what the community wants the coastal environment to look like in 20 years' time. It brings together local communities' knowledge of their landscape and visions for its future.

Wairarapa Coastal Strategy

www.gw.govt.nz/assets/Plans--Publications/Wairarapa-Coastal-Strategy/711FinalStrategywis1347.pdf

This strategy was released in 2004 by the Wairarapa Coastal Strategy Group as a joint initiative between the Masterton, Carterton and South Wairarapa District Councils, Rangitāne o Wairarapa and Ngāti Kahungunu ki Wairarapa iwi, and Greater Wellington Regional Council. It sets a long-term vision and strategy for sustaining the Wairarapa coast, and identifies an inland coastal boundary based on landscape and ecological criteria.

Te Korowai o Te Tai o Marokura Marine Strategy

www.teamkorowai.org.nz/

This strategy from the Kaikōura Coastal Guardians 2012 sets out a vision to achieve a healthy functioning and productive marine ecosystem for the people of Kaikōura.

Examples of plan provisions

Tauranga City Council Harbour Reserves Management Plan

<https://tauranga.govt.nz/council/council-documents/strategies-plans-and-reports/plans/reserve-management-plans/harbour-reserves-management-plan>

This plan is an example of a council reserve management plan (or series of plans) and was developed by the Tauranga City Council in 2007 under section 41 of the Reserves Act 1977. It was developed to provide a vision for the future management of Tauranga Harbour reserves through the promotion of:

- ecological management and enhancement
- natural character and landscape preservation
- recreation
- cultural and historical identification.

Recreational, local purpose and esplanade reserves collectively make up the network of harbour reserves that are included in this comprehensive resource management plan. The plan specifies how it will protect natural character and public access, with

an integrated vision and goals for the long-term and day-to-day management of these harbour reserves.

Auckland Unitary Plan

<http://unitaryplan.aucklandcouncil.govt.nz/Images/Auckland%20Unitary%20Plan%20Operative/Chapter%20F%20Coastal/F2%20Coastal%20-%20General%20Coastal%20Marine%20Zone.pdf>

This plan is an example of a section on vehicles on beaches that links to rules for vehicle use on the foreshore and to bylaws. It has objectives and policies that outline where vehicle use in the CMA will be avoided and limited.

The rules can be found in section F2.19.8 at:

<http://unitaryplan.aucklandcouncil.govt.nz/Images/Auckland%20Unitary%20Plan%20Operative/Chapter%20F%20Coastal/F9%20Vehicles%20on%20beaches.pdf>

Examples of other methods

Auckland Council

www.aucklandcouncil.govt.nz/licences-regulations/driving-on-beaches/Pages/rules-driving-beaches.aspx

The Auckland Council provides online tips and rules for driving or biking on beaches, such as ‘Stay off the dunes’ and ‘Only enter the beach at the public access points’. The Council has implemented a staged approach to increasing controls on vehicles on beaches to ensure that necessary access is identified, while unnecessary, damaging or dangerous use is stopped. This involves changing the policy and rule framework, along with education, enforcement and monitoring. The Auckland Council also specifies to whom complaints about vehicles should be directed.

The Auckland Council bylaw can be viewed at:

www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/bylaws/Documents/public-safety-nuisance-bylaw-2013.pdf

Bay of Plenty Regional Council

www.boprc.govt.nz/our-region-and-environment/coast/vehicles-on-beaches/vehicles-on-beaches-rules/

The Bay of Plenty Regional Council provides rules for vehicles on beaches on its website, as well as links to the rules contained in district plans in the Bay of Plenty region. Some general principles are listed for vehicle access, such as ‘No vehicles on coastal dunes’ and ‘No vehicles in areas of regionally important populations of rare native species’. Where there is pedestrian access to the beach, vehicles may only use official access ways to transport boats or other craft on and off the beach. Greater controls are possible in the future.

Whangarei District Council – Control of Vehicles on Beaches Bylaw

www.wdc.govt.nz/PlansPoliciesandBylaws/bylaws/Documents/Control-of-Vehicles-on-Beaches-Bylaw.pdf

The Whangarei District Council has a bylaw to protect, promote and maintain public health and safety, and protect the public from nuisance by regulating the use of vehicles on beaches in the Whangarei District. Similarly, Whangarei District Council has bylaws to reduce speed limits.

Northland Regional Council

www.nrc.govt.nz/Environment/Coast/Driving-on-the-beach/

The Northland Regional Council website includes a section that discusses the environmental damage that can be caused by driving on beaches, including damage to shorebird nests and the deaths of chicks and eggs that have been run over by vehicles. The Council has rules relating to vehicle use in its regional coastal plan.

Dunedin City Council Beaches and Reserves Bylaw 2017

www.dunedin.govt.nz/your-council/fyi-dunedin/issue-60/beaches-and-reserves-bylaw

The Dunedin City Council Beaches and Reserves Bylaw 2017 will help address how reserves and beaches are used and aims to manage behaviours that may interfere with the public use and enjoyment of these special places.

Whakatāne District Council

www.whakatane.govt.nz/sites/www.whakatane.govt.nz/files/documents/documents-section/policies-and-bylaws/bylaws/Bylaws_Part13_Beaches.pdf

The Whakatāne District Council has a bylaw that prohibits driving along the beach or along the dunes in order to reduce coastal erosion caused by vehicles, damage to sand-binding plants and the deaths of dotterels (which are now rarer than kiwi in this district).

Rārangī Coast Operational Plan (DOC)

www.doc.govt.nz/about-us/our-policies-and-plans/non-statutory-management-plans/rarangī-coast-operational-plan/

The Rārangī Coast Operational Plan (Marlborough) is a non-statutory plan that was prepared by DOC. It includes a section on vehicle access and damage to ecological values, and explains that one of the key issues along this section of coast is the

damage that motorised vehicles cause to vulnerable ecosystems. DOC has monitored the impacts on part of the Rārangī Coast using aerial photographs, which have shown a comparative increase in tracks caused by vehicles.

Reports, websites and additional information

Department of Conservation

www.doc.govt.nz/get-involved/have-your-say/all-consultations/2010/new-zealand-coastal-policy-statement/questions-and-answers/

‘What will Policy 20 mean for vehicle use on beaches?’

Cawthron Institute

<http://nelson.govt.nz/assets/Environment/Downloads/Nelson-Plan/Nelson-Plan-Coastal-Final-CawRpt-3015-Impacts-of-vehicle-traffic-Delaware-Inlet-Cawthron-Institute-June2017.pdf>

Šunde, C.; Berthelsen, A.; Sinner, J.; Gillespie, P.; Stringer, L.; Floerl, L. 2017: Impacts of vehicle access at Delaware (Wakapuaka). Cawthron Institute, Nelson. 75 p.

Ecosystem Consultants

www.ecosystemsconsultants.co.nz/project/conserving-a-taonga-species-and-recreation

Moller, J.A.; Garden, C.; Moller, S.I.; Beentjes, M.; Skerrett, M.; Scott, D.; Stirling, F.F.; Moller, J.S.; Moller, H. 2014: Impact of vehicles on recruitment of toheroa on Oreti Beach. Ecosystems Consultants Report 2014/2. 79 p.

University of Canterbury

https://ref.coastalrestorationtrust.org.nz/site/assets/files/7221/12642945_estuarine_research_report_41_review_of_sand_beach_management_for_shellfish.pdf

Taylor, G.F.; Marsden, I.D.; Hart, D. 2012: Management of vehicle and horse users on sand beaches: implications for shellfish populations. *Estuarine Research Report 41*. University of Canterbury, Christchurch. 48 p.

Department of Conservation

www.doc.govt.nz/documents/science-and-technical/sfc121.pdf

Stephenson, G. 1999: Vehicle impacts on the biota of sandy beaches and coastal dunes: a review from a New Zealand perspective. *Science for Conservation 121*. Department of Conservation, Wellington. 48 p.

Quality Planning

<http://www.qp-test.org.nz/planning-process-plan-topics-land/land-2>

Quality Planning 2013: Esplanade reserves, esplanade strips and access strips guidance note.

Other

www.eds.org.nz/our-work/publications/books/caring-for-our-coast/

Brake, L.; Peart, R. 2013: Caring for our coast: an EDS guide to managing coastal development. Environmental Defence Society, Auckland. 252 p.

Glossary of terms and definitions

NZCPS 2010 glossary

No relevant definitions.

Other definitions

Beach This term can have a range of meanings depending on the context. For coastal management purposes, it includes both the dry and wet intertidal area and beyond (mud, sand, gravel, cobbles, boulders). It should be considered to extend from some low tide mark (such as the line of mean low water springs (MLWS)) up to the line of vegetation, a rock shelf or a similar landward feature that is the effective limit of storm waves and storm surge. (Definition prepared by DOC for this guidance.)

Biological diversity (biodiversity) The variability among living organisms and the ecological complexes of which they are a part, including diversity within species, between species and among ecosystems. (Section 2 of the RMA.)

Coastal marine area (CMA)

The foreshore, seabed, and coastal water, and the air space above the water—

- (a) of which the seaward boundary is the outer limits of the territorial sea;
- (b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—
 - (i) 1 kilometre upstream from the mouth of the river; or
 - (ii) the point upstream that is calculated by multiplying the width of the river mouth by 5

(Section 2 of the RMA.)

Customary marine title

The customary interests—

- (a) established by an applicant group in accordance with subpart 3 of Part 3; and
- (b) recognised by—
 - (i) a customary marine title order; or
 - (ii) an agreement

(Definition taken from the MCAA.)

Emergency vehicle

A vehicle used for attendance at emergencies and operated—

- (a) by an enforcement officer;
- (b) by an ambulance service;
- (c) as a fire service vehicle;
- (d) as a civil defence emergency vehicle;
- (e) as a defence force emergency vehicle

(Clause 1.6 of the Land Transport (Road User) Rule, 2004.)

Esplanade areas Statutory mechanisms that are used to protect riparian and coastal margins. These include esplanade reserves, esplanade strips and access strips. (Definition taken from the Quality Planning website ¹⁹.)

Foreshore Any land that is covered and uncovered by the flow and ebb of the tide at mean spring tides. This does not include any area that is not part of the CMA, such as land that forms part of the bed of a river. (Section 2 of the RMA.)

Mean low water springs (MLWS) The average throughout a year of the heights of two successive low waters during those 24-hour periods (approximately once per fortnight) when the range of the tide is greatest. (Definition taken from the ENCORA Project.)

Mean high water springs (MHWS) The average throughout a year of the heights of two successive high waters during those 24-hour periods (approximately once per fortnight) when the range of the tide is greatest. (Definition taken from the ENCORA Project.)

Protected customary rights

An activity, use, or practice—

- (a) established by an applicant group in accordance with subpart 2 of Part 3; and
- (b) recognised by—
 - (i) a protected customary rights order; or
 - (ii) an agreement

(Definition taken from the MCAA.)

Seabed The submarine areas that are covered by the internal waters and the territorial sea. (Section 2 of the RMA.)

Vehicle

- (a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and
- (b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but
- (c) does not include—
 - (i) a perambulator or pushchair;
 - (ii) a shopping or sporting trundler not propelled by mechanical power;
 - (iii) a wheelbarrow or hand-trolley;
 - (iv) [Repealed]
 - (v) a pedestrian-controlled lawnmower;
 - (vi) a pedestrian-controlled agricultural machine not propelled by mechanical power;
 - (vii) an article of furniture:

¹⁹ <http://www.qp-test.org.nz/>

- (viii) a wheelchair not propelled by mechanical power:
- (ix) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:
- (x) any rail vehicle

(Land Transport Act 1998.)



Road Use Bylaw 2022

Governing body of the Far North District Council

Resolution in Council 19 May 2022.

Bylaw made under sections 145 and 146 of the Local Government Act 2002 and section 22AB of the Land Transport Act 1998.

The bylaw is due for review by 19 May 2027.

Clause	Description	Page
1	Title	
2	Related information boxes	
3	Commencement	
4	Application	
Part 1	Preliminary provisions	
5	Purpose	
6	Interpretation	
Part 2	Vehicle restrictions	
7	Roads where vehicles must travel in a specified direction	
8	Roads where turning right or certain vehicles prohibited	
9	Vehicles containing offensive matter not to be left on road	
Part 3	Putting structures or vegetation on or near roads	
10	Vegetation, walls, or fences must not cause nuisance or danger to traffic	
11	Only certain signs allowed on or near road	
Part 4	Trading on roads and footpaths	
12	Approval required for stands and stalls in public places	
13	Approval required for alfresco dining on footpaths or shared roadways	
Part 5	Animals on roads	
14	General requirement	
Part 6	General road safety	
15	Safe placement of bins, skips or containers on roads	
16	Activities that may impede or obstruct road users	
Part 7	Approvals	
17	Application for approval	
18	Assessment of application	
19	Decision on application	
20	Conditions on approvals	
21	Duration of approval	
22	Objections	
23	Amendment of approval	
24	Transfer of approval	
25	Suspending or cancelling approval	
26	Other obligations not affected	
Part 8	Vehicles on Beaches	
27	Vehicles prohibited	
28	Restriction on the use of vehicles on beaches	

29	Exemptions
30	Persons to provide details
31	Offenders to leave beach
Part 9	Enforcement, offences and penalties
32	Offence and penalty
Part 10	Savings and transitional provisions
33	Parking and Traffic Control Bylaw revoked in part
34	Skating and Cycles Bylaw revoked
35	Nuisances Bylaw revoked in part
36	Applications, approvals etc under revoked bylaws
37	Other existing permits or approvals for matters regulated under this bylaw
Schedules	
38	Roads that have vehicle restrictions or prohibitions
39	Provisions for signs to not be a danger or nuisance
40	Amendment of Schedules
Schedule 1	Roads, or parts of roads, where vehicles must travel in a specified direction
Schedule 2	Roads, or parts of roads, where turning right or certain vehicles prohibited
Schedule 3	Provisions for signs to not constitute a nuisance or danger
Schedule 4	Roads, or parts of roads, where occupation of a stand or stall is prohibited or restricted
Schedule 5	Maps [not part of the bylaw, for ease of reference only]
[view at this link]	
Schedule 6	Beaches or parts of beaches upon which vehicles are prohibited
Schedule 7	Beaches or parts of beaches upon which vehicles are restricted

1 Title

This bylaw is the Road Use Bylaw 2022.

2 Related information boxes

Boxes headed “Related information” in this bylaw are for information purposes only, and –

- (a) they do not form part of this bylaw; and
- (b) cannot be considered in the interpretation or application of a provision of this bylaw; and
- (c) may be inserted, amended or removed by Council without any formality.

3 Commencement

This bylaw comes into force on 23 May 2022.

Related information

This bylaw is due for review by 19 May 2027.
--

4 Application

This bylaw applies to the district of the Far North District Council.

Part 1: Preliminary provisions

5 Purpose

The purpose of this bylaw is to regulate or control the use of roads and adjoining land by –

- (a) vehicles; and
- (b) stands, stalls or mobile shops; and
- (c) animals; and
- (d) structures, vegetation or other things that may affect road safety or the environment.

6 Interpretation

- (1) In this bylaw, unless the context otherwise requires, –

approval means an approval granted under this bylaw and includes all conditions to which the approval is subject.

Authorised agency means the New Zealand Police, New Zealand Fire and Emergency, St Johns Ambulance, Northland Regional Council, Department of Conservation and any surf life saving club.

beach means the foreshore being any area covered and uncovered by the ebb and flow of the tide, and any adjacent area which can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation, but does not include any private property or land administered by the Department of Conservation.

council means the governing body of the Far North District Council, or any person delegated to act on its behalf.

Enforcement officer means any person appointed by Council under section 177 of the Local Government Act 2002, any parking warden appointed by Council under section 128D of the Land Transport Act 1998 and any person defined as an enforcement officer under section 2(1) of the Land Transport Act 1998.

footpath has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004.

Related information

As at 01 May 2021, the definition is: means a path or way principally designed for, and used by, pedestrians; and includes a footbridge.

heavy motor vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998.

Related information

As at 1 April 2021 the definition is: means a motor vehicle (other than a motorcar that is not used, kept, or available for the carriage of passengers for hire or reward) having a gross vehicle mass exceeding 3500 kg.

motor vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998.

Related information

As at 01 February 2011, the definition is:

- (a) means a vehicle drawn or propelled by mechanical power; and
- (b) includes a trailer; but
- (c) does not include—
 - (i) a vehicle running on rails; or
 - (iii) a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or
 - (iv) a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or
 - (v) a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or
 - (vi) a pedestrian-controlled machine; or
 - (vii) a vehicle that the Agency has declared under section 168A is not a motor vehicle; or
 - (viii) a mobility device.

keeper has the same meaning as in section 22AB(6) of the Land Transport Act 1998.

Related information

As at 01 April 2021 the definition is: In relation to a mobile or travelling shop, means the person by whom or on whose behalf any business is carried on by means of the mobile or travelling shop.

mobile or travelling shop has the same meaning as in section 22AB(6) of the Land Transport Act 1998.

Related information

As at 01 April 2021 the definition is:

- (a) means a vehicle, whether self-propelled or not, from which goods, wares, or merchandise are offered or available for sale in the road, or from which goods, wares, or merchandise may be ordered in the road (whether or not in response to any invitation) or from which services are offered for sale in the road; but
- (b) does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or any vehicle used for the purpose of transporting and delivering goods, wares, or merchandise ordered previously.

parking warden has the same meaning as in section 2(1) of the Land Transport Act 1998.

Related information

As at 01 April 2021 the definition is: means a person appointed [by a local authority] to hold the

office of parking warden under section 128D [of the Land Transport Act 1998].

road has the same meaning as in section 2(1) of the Land Transport Act 1998.

Related information

As at as at 01 April 2021, the definition is: includes—

- (a) a street; and
- (b) a motorway; and
- (c) a beach; and
- (d) a place to which the public have access, whether as of right or not; and
- (e) all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in paragraph (d); and
- (f) all sites at which vehicles may be weighed for the purposes of this Act or any other enactment.

The effect of this definition, in particular paragraph (d), is that any public place where it is possible for a vehicle to be driven or ridden is a road, even on places that are not commonly used as a vehicle route but are able to be accessed by the public on a vehicle, and the provisions in this bylaw apply to that place.

vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998.

Related information

As at 01 April 2021 the definition is:

- (a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and
- (b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but
- (c) does not include—
 - (i) a perambulator or pushchair:
 - (ii) a shopping or sporting trundler not propelled by mechanical power:
 - (iii) a wheelbarrow or hand-trolley:
 - (v) a pedestrian-controlled lawnmower:
 - (vi) a pedestrian-controlled agricultural machine not propelled by mechanical power:
 - (vii) an article of furniture:
 - (viii) a wheelchair not propelled by mechanical power:
 - (ix) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:
 - (x) any rail vehicle.

wheeled recreational device has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004.

Related information

As at 01 May 2021 the definition is:

- (a) means a vehicle that is a wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity; and
- (b) includes a conveyance to which are attached 1 or more auxiliary propulsion motors that have a combined maximum power output not exceeding 300 W.

(2) The Interpretation Act 1999 applies to this bylaw.

Related information

This means words and phrases that are defined in the Interpretation Act 1999 have the same meaning in this bylaw. For example, as at as at 01 January 2014, the Act defines **person** as "includes a corporation sole, a body corporate, and an unincorporated body."

Part 2: Vehicle restrictions

7 Roads where vehicles must travel in a specified direction

All vehicles on the roads, or parts of roads, listed in Schedule 1 must travel only in the direction specified for the road, or part of road, in that Schedule. A person must not drive a vehicle in contravention of this clause.

Related information

These roads have “One way” signs erected.

8 Roads where turning right or certain vehicles prohibited

- (1) All vehicle on the roads, or parts of roads, listed in Part A of Schedule 2 are prohibited from turning to the right. A person must not drive a vehicle in contravention of this subclause.

Related information

These intersections have “No right turn” signs erected.

- (2) Heavy motor vehicles are prohibited from travelling on the roads, or parts of roads, listed in Part B of Schedule 2. A person must not drive a heavy motor vehicle in contravention of this subclause.

Related information

These roads have “No heavy vehicles” signs erected.

- (3) Wheeled recreational devices are prohibited from being used on the roads, or parts of roads, listed in Part C of Schedule 2. A person must not use a wheeled recreational device in contravention of this subclause.

Related information

Devices include skateboards and scooters, but not cycles. On roads not listed in Part C of Schedule 2, wheeled recreational devices must be used and operated in accordance with clause 11.1 of the Land Transport (Road User) Rule 2004. The Land Transport (Road User) Rule 2004 also contains restrictions and prohibitions on riding cycles.

9 Vehicles containing offensive matter not to be left on road

- (1) A person must not leave a vehicle containing, or that recently contained, manure, offal, or any other matter or thing that is likely to be offensive or injurious to health, on any road, or place adjoining a road that is within 30 metres of any dwellinghouse, –
- (a) during the period between half an hour after sunset and half an hour before sunrise; or
 - (b) for more than two hours during any other part of a day.
- (2) In this clause “dwellinghouse” has the same meaning as in section 2(1) of the Health Act 1956.

Related information

As at 29 June 2021 the definition is: means any building, tent, caravan, or other structure or erection, whether permanent or temporary, that is used or intended to be used in whole or in part for human habitation, and includes the land and any outbuildings and appurtenances belonging thereto or usually enjoyed therewith.

Part 3: Putting structures or vegetation on or near roads

10 Vegetation, walls, or fences must not cause nuisance or danger to traffic

A person must not plant or erect, at or within 5 meters distance from corners, bends, or intersections on roads, any tree, shrub, hedge, scrub, or other growth, or fence or wall, that, in the opinion of the council is, or is likely to constitute, a source of nuisance or danger to traffic.

Related information

The council can require the owner of any land adjoining a road corridor to remove or trim any vegetation or wall under section 355 of the Local Government Act 1974.

In general it is an offence to place vegetation, a fence or other items on any part of a public road (which includes the berm) without authorisation, under section 357 of the Local Government Act 1974, and the council will normally require their removal. In exceptional circumstances, if deemed an appropriate use of public land, the Council may decide to grant a licence to occupy the road.

11 Only certain signs allowed on or near road

- (1) Except as provided in subclauses (4), (5) and (6), a person must not cause, permit or otherwise enable the display, or continued display, of posters, placards, handbills, writings, pictures, or devices for advertising or other purposes in contravention of subclause (2) –
 - (a) on or over public buildings or bridges; or
 - (b) on or over buildings, walls, fences, posts, trees, footpaths, or hoardings — that are situated –
 - (c) in, or on, or adjoining any land or road that is the property of, or under the control of, the council; or
 - (d) any place where that display is visible from a road or public place.
- (2) Any display, or continued display, of posters, placards, handbills, writings, pictures, or devices for advertising or other purposes must not –
 - (a) obstruct or be likely to obstruct the view of any corner, bend, intersection, vehicle crossing, traffic sign or traffic signals;
 - (b) distract unduly or be likely to distract unduly the attention of a road user;
 - (c) resemble or be likely to be confused with any traffic sign or signal;
 - (d) give rise to excessive levels of glare;
 - (e) use lights or reflective materials;
 - (f) invite drivers to turn so close to a turning point that there is no time to signal or turn safely;
 - (g) have sharp edges, projections or moving parts that may be a nuisance or danger to road users; or
 - (h) constitute or be likely to constitute in any way a danger or nuisance to road users or the environment.

Related information

Some examples of signs that may not comply with subclause (2) are:

- If there are too many signs on a single location that are not reasonably spaced apart they are likely to distract road users who are trying to read them all at the same time and therefore the signs will not comply with paragraph (b).

- Signs that are made with fluorescent or phosphorescent material may mislead or distract drivers from traffic signs installed in the vicinity or mask those signs and therefore not comply with paragraph (c).
 - A sign that reflects the light from the lamps of any vehicle on the road would not comply with paragraph (d).
- (3) All posters, placards, handbills, writings, pictures, or devices for advertising or other purposes must be constructed, fixed, placed and maintained in accordance with the provisions of Schedule 3 to ensure they are not and do not become a danger or nuisance.
- (4) A person may display a poster, placard, handbill, writing, picture, or device for advertising or other purposes that does not comply with Schedule 3 if the person has an approval from Council for the display.
- (5) A person may display a poster, placard, handbill, writing, picture, or device for advertising or other purposes that does not comply with clause 11 subclause (2)(e) if the person has an approval from Council for the display.
- (6) A person may display a poster, placard, handbill, writing, picture, or device for advertising or other purposes that does not comply with clause 11 subclause (2), if –
- (a) it is displayed for a limited period of time to advertise a sporting, community or cultural event; and
 - (b) it is a maximum size of 3 square metres; and
 - (c) the person has an approval for the display from Council; and
 - (d) it is removed no more than 2 days following the completion of the event to which it relates.
- (7) For the purposes of the approvals from Council required in clause 11, if the planned display is to be located on Te Oneroa-a-Tōhe/90 Mile Beach, it must be approved by the Te Oneroa-a-Tōhe Beach Board before an approval is applied for under this bylaw and evidence of the Board’s approval must be included with the application to Council made under this bylaw.
- (8) For the purposes of this clause “public buildings” means buildings that are owned by the council and for the avoidance of doubt a “road user” includes a pedestrian.
- (9) This clause does not apply to advertisements for candidates in an election under the Electoral Act 1993 or the Local Electoral Act 2011.

Related information

Other types of signs, advertising or displays etc that are erected, placed or left on a road and not covered by the description in this clause are prohibited under section 357(1)(a) and (b) of the Local Government Act 1974 unless authorised by the council. Some signs may also require a resource consent under rules in the Far North District Plan made under the Resource Management Act 1991 or a building consent under the Building Act 2004. Signs on Te Oneroa-a-Tōhe/90 mile beach must be approved by the Te Oneroa-a-Tōhe Beach Board, in accordance with the Beach Management Plan (available at this link: <https://www.teoneroa-a-tohe.nz/beach-management-plan>), as well as the council. Any signage displayed on Te Oneroa-a-Tōhe/90 Mile Beach must be bilingual in English and te reo Māori.

Signs on State Highways are regulated in the New Zealand Transport Agency (Signs on State Highways) Bylaw 2010, available at this link: <https://nzta.govt.nz/assets/resources/Bylaws-state-highway/Bylaw-2010-New-Zealand-Transport-Agency-Signs-on-State-Highways-Bylaw-July-2010.pdf>

Part 4: Trading on roads and footpaths

12 Approval required for stands and stalls in public places

- (1) A hawker, pedlar, or keeper of a mobile or travelling shop who wants to operate a stand or stall (including a vehicle used as a stall) —
 - (a) in any road or part of a road; or
 - (b) in any public place adjoining a road or State highway if the presence of the stall or stand is likely to cause an obstruction or a danger to traffic –must have written approval from the Council to operate that stand or stall.
- (2) Subclause (1) does not apply to a person who meets the description in section 31(1) of the Food Act 2014, but subclauses (3) and (4) do apply to that person.

Related information

As at 23 February 2021, section 31(1) of the Food Act 2014 is:

31 Exemption from food control plan and national programme if trading in food for certain fund-raising

(1) This section applies if—

- (a) a person or group of persons trades in food for the sole purpose of raising money for a charitable, benevolent, philanthropic, or cultural purpose; and
- (b) the fund-raising activity is not carried out on more than 20 occasions in any calendar year (unless it is incidental to another charitable, benevolent, or philanthropic activity, such as a permanent stall selling donated goods at a hospice).

- (3) Operation of a stand or stall by a hawker, pedlar, or keeper of a mobile or travelling shop in the roads, or part of a road, or public places specified in Part A of Schedule 4 is prohibited.
- (4) Operation of a stand or stall by a hawker, pedlar, or keeper of a mobile or travelling shop in the roads, or part of a road, or public places specified in Part B of Schedule 4 is restricted to the type of stand or stall stated in that schedule and the council may not grant an approval for any other type of stand or stall in the specified road, part of a road or public place.
- (5) Subclauses (3) and (4) do not apply to a person who has a licence to occupy the road or public place from the council or to stands or stalls that are part of an event and included in the council's authorisation of the event.

Related information

A footpath is part of a road and this clause applies to footpaths accordingly.

“hawker” and “pedlar” are common older words used to refer to a person who sells things either by travelling from place to place (hawker) or door-to-door or on a street (pedlar).

13 Approval required for alfresco dining on footpaths or shared roadways

- (1) A person who wants to occupy any part of a road with structures for providing food or beverage services, including tables, chairs, umbrellas, or heaters, must have written approval from the Council for that occupation.
- (2) A person may not apply for an approval under this clause to occupy –
 - (a) any place that is adjacent to a pedestrian crossing or a place where parking is restricted to passenger service vehicles; or
 - (b) any place that will obstruct, or interfere with, the use of council street furniture or rubbish bins by the public; or
 - (c) any place that will obstruct access to, or egress from, any building.

- (3) The area for which an approval is sought must leave a minimum of 1.5 metres clear access for pedestrian traffic.

Related information

A footpath is part of a road and this clause applies to footpaths accordingly.

An approval under this clause does not include providing alcohol. A separate licence is required under the Sale and Supply of Alcohol Act 2012.

Part 5: Animals on roads

14 General requirements

- (1) A person having control of animals being driven or ridden on any road must ensure that any solid materials deposited on the road from the animals are removed and disposed of within a reasonable period of time, if these materials cause or are likely to cause in any way a danger or nuisance to road users or damage to the road.
- (2) A person must not drive any stock on any road during the period between half an hour after sunset and half an hour before sunrise unless sufficient warning is provided and maintained by such person by the use of lights or other effective devices or means to ensure that other persons using such road shall have adequate notice of the presence of such animals on the road.

Related information

The Land Transport (Road User) Rule 2004 includes other requirements that apply to leading or riding animals on roads and must be complied with on the roads where animals are permitted under this bylaw. For example, clause 11.14(4) prohibits a person from riding an animal on a footpath.

Under section 33 of the Impounding Act 1955 stock straying or wandering on any road can be impounded and the owner prosecuted for an offence under that Act.

Part 6: General road safety

Related information

The clauses in this Part are made under section 22AB(1)(zk) of the Land Transport Act 1998 to regulate road-related matters, including (but not limited to) enhancing or promoting road safety or providing protection for the environment.

In addition to the provisions of this bylaw, several other actions on roads, if done without the council's permission, are offences under section 357(1) of the Local Government Act 1974. For example: a building or fence that encroaches on a road, digging up the soil of a road or excavation near a road, or placing or leaving any thing (such as a skip) on the road.

Similarly, if someone wants to use a road (including a footpath) for an event, the person must get the council's permission under section 342 of the Local Government Act 1974. The council can also close roads for "vehicle races or trials, or any processions, carnivals, celebrations, sporting events, or other special events" under the Transport (Vehicular Traffic Road Closure) Regulations 1965.

15 Safe placement of bins, skips or containers on roads

- (1) A person must not place a waste bin, skip, shipping container or other similar receptacle on a road unless it –

- (a) is on a part of the road where parking is not prohibited or restricted under the council's Parking Bylaw; and
 - (b) is not closer than one metre to a traffic lane at any time; and
 - (c) has its edge that faces on-coming traffic painted white or a fluorescent colour that is in contrast to the colour of its main body and the edge markings are maintained to ensure clear visibility to traffic; and
 - (d) is not left on the road between half an hour after sunset of one day and half an hour before sunrise the following day unless properly lit by flashing amber lights on outer corners of the bin facing on-coming traffic.
- (2) This clause does not apply to containers of domestic waste placed on a road in a manner that complies with the council's Solid Waste Bylaw.

Related information

The council's Solid Waste Bylaw can be read at this link:

<https://www.fndc.govt.nz/files/assets/public/objectivedocuments/governance-and-executive-management-gem/bylaws/solid-waste/solid-waste-bylaw-2016.pdf>

16 Activities that may impede or obstruct road users

A person must not perform, sing, play musical instruments, preach, lecture or exhibit on a road –

- (a) in a way that impedes pedestrians or vehicles; or
- (b) in a way that prevents or obstructs access to shops or premises adjacent to the road; or
- (c) in a way that creates a nuisance.

Related information

A footpath is part of a road and this clause applies to footpaths accordingly.

Part 7: Approvals

17 Application for approval

- (1) An application for an approval required by this bylaw must be made to the council by the person, company or group who needs the approval ("**the applicant**") and –
- (a) be in the form required by the council; and
 - (b) include all the information required by this bylaw and by Council; and
 - (c) be accompanied by the applicable fee set in the council's Fees and Charges Policy.

Related information

The Fees and Charges Policy can be read at this link:

<https://www.fndc.govt.nz/files/assets/public/objectivedocuments/policy-and-planning-pol/tp-and-annual-plans/fees-and-charges/fees-and-charges.pdf>

- (2) All applications for an approval must include –
- (a) information about the applicant and their contact details as required in the form; and
 - (b) the address or a description of the location where the matter covered by the approval will occur.
- (3) An application is not treated as having been made until all the provisions in this clause have been complied with.

18 Assessment of application

The council must assess all applications that are received for approvals under this bylaw as soon as reasonably practicable after the application has been made. When assessing an application, the Council must consider –

- (a) whether the matter covered by the approval will comply with any applicable provisions of this or any other bylaw made by the council; and
- (b) whether any conditions are required to be included in the approval under clause 20; and
- (c) if the application relates to a sign, any relevant assessment criteria in the Operative Far North District Plan; and
- (d) any other factors that Council considers relevant to the application.

19 Decision on application

- (1) The council must decline an application for an approval under this bylaw unless the matter to be covered by the approval –
 - (a) is a permitted activity under any applicable plan, provision, statutory or regulatory requirement; or
 - (b) is covered by a resource consent – under the Resource Management Act 1991.
- (2) The council may grant an approval if it is satisfied the approval will not, or is not likely to, –
 - (a) affect the safe or efficient operation of any road, footpath, grass verge, grass berm or public place; or
 - (b) be a nuisance, or source of a nuisance, or a health hazard, or a danger to traffic; or
 - (c) detract from the amenity or character of a neighbourhood.
- (3) The council may decline an application for an approval if –
 - (a) it is not satisfied about any one or more of the matters in subclause (2); or
 - (b) granting the approval would unreasonably affect the council's ability to enhance or promote road safety or provide protection for the environment.
- (4) An applicant may withdraw their application for an approval under this bylaw at any time before a decision is made, but any fee paid with the application will not be refundable unless the council, in its absolute discretion, decides a refund, or partial refund, is reasonable in the circumstances.

20 Conditions on approvals

- (1) All approvals granted under part 7 of this bylaw must include a condition that enables the council to carry out inspections to ensure the approval and any other conditions under that approval are being complied with.
- (2) The council may include conditions on an approval for any one or more of the following matters –
 - (a) limiting the days, or times of day, a thing can be put on a road, or public place adjoining a road, and the condition may also require the thing –
 - (i) to be lit by flashing amber lights on outer corners facing on-coming traffic or such other lighting that may be considered by the council to be sufficient; or
 - (ii) to be contained within an area on the road that has been fenced off in a manner that satisfies the council:
 - (b) payment of a bond, of an amount determined by the council, to be used by the council to make good any damage caused by the person granted the approval. The council may

charge that person a further amount if the bond does not cover the full cost incurred by the council:

- (c) where normal pedestrian traffic will be impeded or pedestrians will pass nearby, specifying how pedestrian safety is to be ensured:
- (d) requiring action to be taken, including to –
 - (i) prevent tools, dust, rubbish, materials or water falling on vehicles or adjoining land; or
 - (ii) keep footpaths clean; or
 - (iii) prevent dirt or water falling on the public; or
 - (iv) protect road safety, including the safety of pedestrians; or
 - (v) prevent the obstruction of street channels; or
 - (vi) protect street lamps, which must not be enclosed unless specified otherwise in the approval; or
 - (vii) protect fire hydrants, which must not be enclosed and must be able to be easily got at and used; or
 - (viii) minimise any likely obstruction to road users:
- (e) requiring the person granted the approval to hold a current insurance policy of a specified amount (such amount to be determined at the sole discretion of the council) covering any damage that may be caused and providing a copy of the policy to the council:
- (f) requiring a copy of the approval to be displayed on any premises:
- (g) restricting the area or space the approval applies to:
- (h) removal of litter:
- (i) prohibiting or restricting the use of amplified equipment, megaphone or similar devices:
- (j) requiring access to all underground services to be provided at all times:
- (k) any other matter the council considers is reasonable to enhance or promote road safety or protect the environment.

21 Duration of approval

- (1) All approvals granted under this bylaw have a duration of 12 months from the date granted, unless another duration period is specified in the approval.
- (2) A person granted an approval may apply to the council to renew the approval, before the end of its duration, by –
 - (a) informing the council, in writing, the approval is still necessary and giving reasons why; and
 - (b) demonstrating any conditions are being met, or seeking amendment of the conditions.
- (3) The provisions of this bylaw about approvals apply to the renewal of an approval, with any necessary modifications, including payment of any applicable fee.
- (4) If the council has not made a decision on the renewal application before the duration of the approval ends, the approval will continue to have effect until the renewal application is decided.
- (5) For the avoidance of doubt, if the duration of an approval has ended, the person granted the approval may apply for a new approval and refer to the previous approval to support their application, but during the time between the previous approval ending and a new one being determined, the applicant cannot do any of the things that were covered by the previous approval. The applicant must remove all items covered by the previous approval and ensure the location is cleared of any hazards caused by their activity.

22 Objections

- (1) An applicant may object to the council about –
 - (a) a decision to decline an approval by lodging an objection in writing within 20 working days after the date of the decision; or
 - (b) a condition on an approval by lodging an objection in writing within 20 working days after the date of the decision.
- (2) The council will make a decision on an objection within 20 working days of the date the objection is received and will provide the decision, in writing, to the applicant. The decision must include the reasons for the decision.
- (3) Nothing in this clause affects the right of an applicant to apply for judicial review of a decision to decline an application for an approval or a decision to include conditions on an approval.

23 Amendment of approval

A person granted an approval may, at any time within the duration of the approval, apply to the council to amend the approval or its conditions. An application for amendment must be made in the same manner as an application for an approval (including payment of a fee), with any necessary modifications.

24 Transfer of approval

Approvals are not transferable to any other person, company or group.

25 Suspending or cancelling approval

- (1) The council may suspend or cancel an approval, in its absolute discretion, if –
 - (a) the council has approved an event or road stoppage at the same location, which, in the Council's opinion, necessitates the suspension or cancellation; or
 - (b) any conditions on the approval are not being met; or
 - (c) the council considers the suspension or cancellation necessary to enhance or promote road safety, provide protection for the environment, or for any other reason it considers relevant and reasonably necessary.
- (2) The suspension or cancellation takes effect from the date the person who was granted the approval receives written notice of the council's decision to suspend or cancel the approval, or from five working days after the written notice was sent via post or email to the address or email address provided to the Council by the applicant, whichever is earliest. The notice must include the reasons for the council's decision.
- (3) Suspending or cancelling an approval does not affect the council's powers to take other enforcement action under this bylaw or any other legislation for any acts or omissions that may have contributed to the suspension or cancellation of the approval.
- (4) The person who was granted an approval that is suspended or cancelled under this clause may object to the council about the suspension or cancellation by lodging an objection in writing within 20 working days after the date of the suspension or cancellation.
- (5) The council will make a decision on an objection within 20 working days of the date the objection is received and will provide the decision, in writing, to the applicant. The decision must include the reasons for the decision.
- (6) Nothing in sub-clauses (4) or (5) affects the right of the person to apply for judicial review of a decision to suspend or cancel an approval.

- (7) Any fees paid for the approval are not refundable if the council suspends or cancels the approval.

26 Other obligations not affected

An approval does not affect or limit the obligations of any person to comply with any legislation or regulatory requirement that applies to the matters covered by the approval.

Part 8: Vehicles on Beaches

27 Vehicles prohibited

All vehicles are prohibited on any beach or any part of a beach which is identified in schedule 6 at all times unless an exemption has been provided under clause 29 of this Bylaw.

28 Restriction on the use of vehicles on beaches

- (1) Vehicles are prohibited on any beach or any part of a beach which is identified in schedule 7 during the times and or dates listed in the schedule unless an exemption has been provided under clause 29 of this bylaw.
- (2) Where schedule 7 specifies that the restriction on vehicles on any beach or part of a beach should be limited to a class or description of vehicles, the restriction in subclause (1) only applies to vehicles of that class or description.

29 Exemptions

- (1) Any employee, contractor or nominee of an authorised agency who is carrying out the lawful functions of that agency is exempt from the restrictions imposed under clause 30 and 31 of this bylaw.
- (2) Council may issue an exemption to clause 27 and 28 of this bylaw to any person and may impose any conditions to that exemption. Council may revoke an exemption in its sole discretion at any time.

30 Persons to provide details

Where in the opinion of an enforcement officer a person has failed to comply with any provision of this Bylaw relating to vehicles on beaches the person shall, on demand by an enforcement officer, give his or her full name and full address. The failure to provide such information or give correct information shall constitute a further offence against this Bylaw.

31 Offenders to leave beach

Where in the opinion of an enforcement officer a person has failed to comply with any provision of this Bylaw, the enforcement officer may direct the person to immediately leave the beach, and the person may be further prohibited by that officer from re-entering the beach for a period of 24 hours.

Part 9: Enforcement, offences and penalties

Related information

The council has powers under the Land Transport Act 1998 and Local Government Act 2002 to take various actions to enforce the provisions of this bylaw. For example, under section 128E of the Land Transport Act 1998 the council can remove vehicles that are causing an obstruction. All other actions to enforce the provisions of this bylaw are taken by the Police.

32 Offence and penalty

- (1) A person who fails to comply with or breaches this bylaw commits an offence under the Local Government Act 2002 and the Land Transport Act 1998 and is liable to the penalties set out in those Acts.
- (2) Subclause (1) does not prevent the council or other enforcement authorities from having recourse to other legal remedies, as they see fit, to enforce the provisions of this bylaw.

Related information

A person who commits an offense against this Bylaw under the Land Transport Act 1998 may be served with an infringement notice in accordance with sections 22AB and 139 of the Land Transport Act 1998 and may be liable to a fine of up to \$1,000. A person who is convicted of an offense against this Bylaw under the Local Government Act 2002 is liable to a fine not exceeding \$20,000.

Breaches of this bylaw may also be offences under the Land Transport (Offences and Penalties) Regulations 1999 with fines of up to \$1000.

Part 10: Savings and transitional provisions

33 Parking and Traffic Control Bylaw revoked in part

- (1) Clauses 2004, 2006, 2007, 2008, 2009 and Schedules 2, 3, 4, 5, 6, 7 and 8 of the Parking and Traffic Control Bylaw made by the council on 17 June 2010 and all amendments made to those clauses or schedules are revoked.
- (2) All resolutions made pursuant to the provisions referred to in subclause (1) are also revoked.
- (3) The revocations in this clause do not prevent any legal proceedings, criminal or civil, commenced to enforce the bylaw or resolutions from continuing to be dealt with and completed as if the bylaw or resolutions had not been revoked.

34 Skating and Cycles Bylaw revoked

- (1) The Skating and Cycles Bylaw made by the council on 12 July 2007 and all amendments made to that bylaw are revoked.
- (2) The revocation of the Skating and Cycles Bylaw in this clause does not prevent any legal proceedings, criminal or civil, commenced to enforce that bylaw from continuing to be dealt with and completed as if the bylaw had not been revoked.

35 Nuisances Bylaw revoked in part

Clause 1106 of Chapter 11 (Nuisances) of the General and Fire Bylaw made by the council on 28 November 1990 is revoked.

36 Applications, approvals etc under revoked bylaws

All applications, approvals, permits, documents, matters, acts, and things that were made, approved or authorised under the provisions of the Parking and Traffic Control Bylaw revoked in clause 33, and are continuing at the commencement of this bylaw, will continue, and be treated, as if they are applications made, or approvals granted, under this bylaw, except –

- (a) any approval, permit or authorisation will only continue until the date that is 12 months from the date this bylaw commences; and
- (b) any approval, permit or authorisation granted under revoked bylaws cannot be renewed under this bylaw and must be treated as a new application.

37 Other existing permits or approvals for matters regulated under this bylaw

If, before the date this bylaw commenced, the council granted a person a permit, authorisation, licence, approval or other form of consent to do any act or thing that is regulated under this bylaw, that permit, authorisation, licence, approval or other form of consent will continue, and be treated, as if it is an approval granted under this bylaw, except –

- (a) the permit, authorisation, licence, approval or other form of consent will only continue until the date that is 12 months from the date this bylaw commences; and
- (b) the permit, authorisation, licence, approval or other form of consent granted under revoked bylaws cannot be renewed under this bylaw and must be treated as a new application.

Related information

The effect of clauses 36 and 37 is that anything that may have been previously approved by the council, whether under the revoked bylaws or under the council's general powers in the Local Government Act 2002 or any other Act, will continue to be approved until 12 months after this bylaw commences. If the person doing the thing wants to continue doing it after that date, they must apply for a new approval under this bylaw. Clause 37 in particular will affect people who have permits, licences or approvals for mobile shops or signs.

Schedules

38 Roads that have vehicle restrictions or prohibitions

- (1) Schedule 1 lists the roads, or parts of roads, where, under clause 7, vehicles must travel only in the direction specified.
- (2) Schedule 2 has 3 parts –
 - (a) Part A lists the roads, or parts of roads, where under clause 8 vehicles are prohibited from turning to the right:
 - (b) Part B lists the roads, or parts of roads, where under clause 8 heavy motor vehicles are prohibited:
 - (c) Part C lists the roads, or parts of roads where, under clause 8, wheeled recreational devices are prohibited.
- (3) Schedule 4 lists the roads or public places where, under clause 13, the occupation of a stand or stall by a hawker, pedlar, or keeper of a mobile or travelling shop is prohibited or restricted. Schedule 4 has two parts –
 - (a) Part A specifies the roads or places where stands or stalls are prohibited:
 - (b) Part B specifies the roads or places where only certain types of stands or stalls can be approved.
- (4) Schedule 6 lists the beaches or parts of beaches where vehicles are prohibited at all times.

- (5) Schedule 7 lists the beaches or parts of beaches where vehicles are prohibited at specified times and or dates.
- (6) The Schedules described in this clause are organised by the type of restriction or prohibition. Schedule 5 shows all the restrictions or prohibitions on maps for the town or area they apply to, for ease of reference only. Schedule 5 is not part of this bylaw and if there is any conflict or inconsistency between it and the other Schedules in this clause, the other Schedules prevail.

39 Provisions for signs to not be a danger or nuisance

Schedule 3 states provisions for the construction, fixing, placing and maintenance of posters, placards, handbills, writings, pictures, or devices for advertising or other purposes that will be treated by the council as not constituting a danger or nuisance under clause 11(2)(h).

40 Amendment of Schedules

- (1) The council may, by resolution, add or remove any road, or part of a road, or public place from Schedules 1, 2, or 4.
- (2) The council may, by resolution, add or remove any beach, or part of any beach from schedule 6.
- (3) The council may, by resolution, add or remove any beach, or part of any beach from schedule 7 and may amend, add or remove any time or date restrictions applicable to those beaches.
- (4) The council may, by resolution, add or remove any provisions from Schedule 3.
- (5) Schedule 5 may be amended or removed without any formality.

Schedule 1 – Roads where vehicles must travel in a specified direction

Clause 7

Roads, or parts of roads, where, under clause 7, vehicles must travel only in the direction specified

ROAD NAME	TRAVEL DIRECTION	START GPS	END GPS
DICKESON STREET	Southerly	-35.4078617987209, 173.799459289245	-35.4086896463027, 173.800126053371
FAIRWAY DRIVE	South East	-35.2262859468282, 173.948055830472	-35.2271030950929, 173.949224484447
HOMESTEAD ROAD	North West to North East	-35.228403843574, 173.948081874859	-35.2262859468282, 173.948055830472
KERIKERI ROAD	South West	-35.2271030950929, 173.949224484447	-35.228403843574, 173.948081874859
LYON STREET	Easterly	-35.3165902527345, 174.114493268496	-35.3170231732711, 174.117421123837
THE STRAND (NORTH)	Northbound	-35.2618361520496, 174.12151016454	-35.2598179764385, 174.12065684762
THE STRAND (SOUTH)	Southbound	-35.2618361520496, 174.12151016454	-35.2637971260703, 174.121798983856
WILLIAMS ROAD	Southerly	-35.2813432670373, 174.091970489943	-35.2821262432564, 174.091045822137

Schedule 2 – Roads where turning right or certain vehicles prohibited

Clause 8

Part A – Roads, or parts of roads, where under clause 8 vehicles are prohibited from turning to the right

ROAD NAME	LOCATION	START_GPS	END_GPS
HONE HEKE ROAD		-35.2274901432561, 173.956737019312	-35.2297291974002, 173.954844220669
MELBA STREET	At Melba Street	-35.1140100207861, 173.264259244944	-35.1141045089006, 173.264051480076

Part B – Roads, or parts of roads, where under clause 8 heavy motor vehicles are prohibited

ROAD NAME	LOCATION	RESTRICTION	START_GPS	END_GPS
COMMERCE STREET (KAITAIA)	Between the intersection of Pukepoto Road and Commerce Street and the intersection of Commerce Street and Redan/Couth Roads	No heavy vehicles that are bus or stock truck or truck and trailer or semi-trailer combination	-35.1165093774186, 173.265631704285	-35.108679520053, 173.258675165054

Part C – Roads, or parts of roads, where under clause 8 wheeled recreational devices are prohibited

ROAD NAME	LOCATION	Legal Desc	START_GPS	END_GPS
AUGUSTA PLACE	In a line south, from Augusta Place and including Homestead Road to Kerikeri Road, including Julian Car park		-35.2261566863974, 173.947929980772	-35.2255903246232, 173.948326680357
BAYVIEW ROAD (PAIHIA)				
COBHAM COURT	Cobham Road, including Cobham Court, from Kerikeri Road junction with Hone Heke Road.		-35.2298434264742, 173.951959382446	-35.2283852705134, 173.953156239256
COBHAM ROAD	Cobham Road, including Cobham Court, from Kerikeri Road junction with Hone Heke Road.		-35.2276848153804, 173.948702361719	-35.2313124864811, 173.953481802509
COMMERCE STREET (KAITAIA)	Commerce street between its junction with Redan Road to the south and it's junction with Taafe Street to the north, on both the east and west sides of		-35.1165093774186, 173.265631704285	-35.1127442548037, 173.262964959387

FAIRWAY DRIVE	In a line south, from Augusta Place and including Homestead Road to Kerikeri Road, including Julian Car park		-35.2262859468282, 173.948055830472	-35.2261566863974, 173.947929980772
HOBSON AVENUE (KERIKERI)	Hobson Avenue Car Park	Lot 16 DP 35860, Part Lot 2 DP 83550, Section 64 Block XI Kerikeri SD, Lot 22 DP 35860, Section 46 Block XI Kerikeri SD, Lot 21 DP 35860, Lot 2 DP 97524, Lot 1 DP 97524, Part Lot 1 DP 26369		
HOBSON AVENUE (KERIKERI)			-35.2294054501442, 173.947186213376	-35.2289852947719, 173.950660228532
HOMESTEAD ROAD	In a line south, from Augusta Place and including Homestead Road to Kerikeri Road, including Julian Car park		-35.228403843574, 173.948081874859	-35.2262859468282, 173.948055830472
HONE HEKE ROAD	Hone Heke Road, from the Junction with Cobham Road, to the junction adjoining Kerikeri Road.		-35.2210833849848, 173.954417629571	-35.2313124864811, 173.953481802509
JULIAN CAR PARK	In a line south, from Augusta Place and including Homestead Road to Kerikeri Road, including Julian Car park	Part Lot 13 DP 28912		
KERIKERI ROAD	From the roundabout at the junction of that road, Butler Road, Hobson Avenue, to the junction with Clarke Road.		-35.2294054501442, 173.947186213376	-35.2255750424365, 173.950500400308
MARINO PLACE	Marino Place Car Park	LINZ Parcel id 6851067		
MARSDEN ROAD (SH11)	Land zoned Recreational Activities in the Far North District Plan on Marsden Road from the corner of School Road to Bayview Road	Lot 4 DP 57340, Lot 1 DP 11040, Lot 3 DP 57340, Lot 1 DP 57340, Lot 2 DP 57340, Lot 5 DP 57340, Part Lot 27 DP 11040		
PARNELL STREET	Parnell Street from the Police Station to the ferry ramp.		-35.3941585612966, 173.504681224527	-35.3925698107695, 173.505143403918
RAWENE FERRY RAMP	Parnell Street from the Police Station to the ferry ramp.		-35.3923884647662, 173.505189005378	-35.3921644377561, 173.505341377438
RUSSELL ESPLANADE	Parnell Street from the Police Station to the ferry ramp.		-35.3925698107695, 173.505143403918	-35.3923884647662, 173.505189005378
SELWYN ROAD (PAIHIA)			-35.2806868253955, 174.08908491049	-35.2821262432564, 174.091045822137
WILLIAMS ROAD	Williams Road to the corner of Joyces Road.		-35.2813432670373, 174.091970489943	-35.2844726239531, 174.08869556123

Schedule 3 – Provisions for signs to not constitute a nuisance or danger

Clause 11(2)(h)

Posters, placards, handbills, writings, pictures, or devices for advertising or other purposes that meet the provisions of this Schedule will be treated by the council as not constituting a danger or nuisance under clause 11(2)(h). Signage that does not comply with these requirements must not be put up without written approval from the Council. Approval is at the sole discretion of the Council.

- (1) The poster, placard, handbill, writing, picture, or device must be constructed, fixed, placed and maintained to:
 - (a) not exceed 1 square metre in area or 2 metres for any edge dimension; and
 - (b) use a colour combination for the background, wording and legend that does not cause confusion with any of those used for any official road sign or traffic sign; and
 - (c) not display more than 6 words, symbols or graphics and no more than 40 characters; and
 - (d) use no reflective material; and
 - (e) provide no internal or external illumination; and
 - (f) have the bottom edge not more than 2.5 metres above road level or ground; and
 - (g) contain no moving parts or a dynamic display; and
 - (h) not reduce the width of any footpath or other place used by pedestrians to less than 1.5 metres and if fixed, be not closer than 5 metres from the edge of the carriageway, if moveable, be not closer than 2 metres from the edge of the carriageway; and
 - (i) be secured against wind gusts; and
 - (j) not project more than 50mm from a building frontage if it is less than 2.5 metres above ground level; and
 - (k) be more than the following distances from an intersection, permanent regulatory or warning sign, curve (with chevron signing), or pedestrian crossing:
 - (i) 100 metres in the urban environment (as defined by the Operative Far North District Plan); or
 - (ii) 200 metres in the rural environment (as defined by the Operative Far North District Plan).
- (2) On roads where the speed limit is 70km/h or less, the poster, placard, handbill, writing, picture, or device must use lettering and symbols at least 120 millimetres in height.
- (3) On roads where the speed limit is greater than 70km/h, the poster, placard, handbill, writing, picture, or device must:
 - (a) use lettering and symbols at least 160 millimetres in height; and
 - (b) provide an unrestricted view to drivers for a minimum distance of 180 metres; and
 - (c) have supports that meet the relevant requirements regarding strength, rigidity and impact performance in section 7.0 of the New Zealand Transport Agency's "Traffic Control Devices Manual – Part 1 General requirements for traffic signs".

Related information

The Traffic Control Devices Manual – Part 1 General requirements for traffic signs can be read at this link: [Traffic control devices manual - Part 1: General requirements for traffic signs \(nzta.govt.nz\)](https://www.nzta.govt.nz/traffic-control-devices-manual-part-1-general-requirements-for-traffic-signs)

Schedule 4 – Roads, or parts of roads, where occupation of a stand or stall is prohibited or restricted

Clause 13

Part A – Places where stands or stalls are prohibited

Kerikeri

Any place in the Stone Store Basin that is within a 300 metre radius of the Stone Store, including Landing Road.

Start GPS: -35.2150106378605, 173.962339324991

End GPS: -35.2150106378605, 173.962339324991

Paihia

Any place outside the Memorial Hall on Williams Road.

Start GPS: -35.2822803795467, 174.090925796558

End GPS: -35.2824091261618, 174.090781583073

Russell

The Strand (North)

Start GPS: -35.2618361520496, 174.12151016454

End GPS: -35.2598179764385, 174.12065684762

The Strand (South)

Start GPS: -35.2618361520496, 174.12151016454

End GPS: -35.264872330982, 174.121538317746

Part B – Places where type of stand or stall is restricted

- (1) Approvals for stands or stalls in or on the following roads or public places are restricted to those that spend a maximum of 60 minutes at the location, for example, mobile ice cream vendors –
 - (a) In Paihia at –
 - (i) Paihia Beach and all reserves between School Road and Seaview Road
Start GPS: -35.2851187007768, 174.096891702562
End GPS: -35.2823553472988, 174.093036912683
 - (ii) Te Tii Beach between the roundabout on junction of Puketona Rd and Marsden Rd through to the Bluff
Start GPS: -35.2788504373091, 174.089661222051
End GPS: -35.2773440975235, 174.08293900111
 - (iii) Te Karuwha Parade
Start GPS: -35.2774686433065, 174.082874727032
End GPS: -35.2706370437992, 174.079689916184

- (b) In Russell at –
 - (i) Tapeka Point Beach
 - Start GPS: -35.2470182629473, 174.116510214275
 - End GPS: -35.2460729956379, 174.118431103766
 - (ii) Long Beach in or on any place outside of the car park area
 - Start GPS: -35.2570963427531, 174.131095418639
 - End GPS: -35.2610813938921, 174.140446317826
- (2) Approvals for stands or stalls in or on the following roads or public places are restricted to those used by operators of a passenger service vehicle to sell tours or trips –
 - (a) In Paihia at Paihia Beach and all reserves between the Bluff through to School Road
 - Start GPS: -35.2823699222072, 174.093047512929
 - End GPS: -35.2788504373091, 174.089661222051

[Schedule 5 – Maps]

[As stated in Subclause 38 (6), Schedule 5 contains maps for ease of reference only. Schedule 5 is not part of this bylaw and is provided in a separate document.]

Schedule 6 – Beaches or parts of beaches upon which vehicles are prohibited

1. Coopers Beach – Vehicles are prohibited on the entirety of Coopers Beach (as indicated on the Map below) at all times.



Schedule 7 – Beaches or parts of beaches upon which vehicles are restricted

[No beaches or parts of beaches are included in Schedule 7 at this time.]

Bay of Plenty Regional Coastal Environment Plan

3 December 2019

Amended 18 May 2021 to include provisions relating to ONFL-5 Te Ure Kotikoti
(Matakana Barrier Arm) and Motiti Protection Area/Marine Spatial Planning



RESOURCE MANAGEMENT ACT 1991

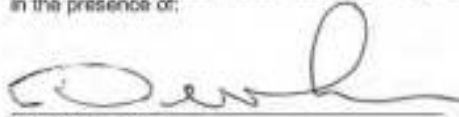
BAY OF PLENTY REGIONAL COUNCIL TOI MOANA

BAY OF PLENTY REGIONAL COASTAL ENVIRONMENT PLAN


Part of the Bay of Plenty Regional Coastal Environment Plan was made operative on 3 December 2019.

The remaining parts were the subject of outstanding inquiries before the Environment Court. The outstanding inquiries were finally disposed of on 8 October 2019 (proceeding reference ENV-2015-AKL-000127) and 8 June 2020 (proceeding references ENV-2015-AKL-134, 140 and 141). Following disposal of those inquiries the Bay of Plenty Regional Council adopted the remaining parts of the Bay of Plenty Regional Coastal Environment Plan, which relate to the coastal marine area, by resolution of the Council on the 25th day of June 2020 in accordance with clause 18 of the First Schedule to the Resource Management Act 1991.

The Common Seal of the **BAY OF PLENTY REGIONAL COUNCIL** was affixed hereto this 25th day of June 2020 in the presence of:



Douglas Leeder
Chairman



Fiona McTavish
Chief Executive



The Minister of Conservation approved the remaining parts of the Bay of Plenty Regional Coastal Environment Plan relating to the coastal marine area which were adopted by Bay of Plenty Regional Council on 25 June 2020 by signing the Bay of Plenty Regional Coastal Environment Plan in accordance with clause 19 of the First Schedule to the Resource Management Act 1991.



Hon. Kiriakou Allan
Minister of Conservation

25 February 2021

Date

The remaining parts of the plan to include ONFL-5 Te Ure Koti Koti (Matakana barrier arm) are operative from 18 May 2021

The remaining parts of the plan relating to marine spatial provisions for Motiti are operative from 11 August 2021.

RESOURCE MANAGEMENT ACT 1991


**BAY OF PLENTY REGIONAL COUNCIL
TOI MOANA**

BAY OF PLENTY REGIONAL COASTAL ENVIRONMENT PLAN

The Bay of Plenty Regional Coastal Environment Plan was prepared by the Bay of Plenty Regional Council under section 64 and the First Schedule of the Resource Management Act 1991.

The Bay of Plenty Regional Council approved that part of the plan that is not part of the coastal marine area and adopted that part of the plan in the coastal marine area by resolution of the Council on the 30th day of October 2018 in accordance with clauses 17 and 18 of the First Schedule of the Resource Management Act 1991.

The Common Seal of the **BAY OF PLENTY REGIONAL COUNCIL** was affixed hereto this 30th day of October 2018 in the presence of:



Douglas Leader
Chairman





Fiona McTavish
Chief Executive

Minister of Conservation approved that part of the Bay of Plenty Regional Coastal Environment Plan relating to the coastal marine area by signing it in accordance with clause 19 of the First Schedule of the Resource Management Act 1991.



Hon. Eugenie Sage
Minister of Conservation

Contents

Part One: Purpose, content, planning framework	1
1 Introduction	1
2 Purpose	1
3 Plan coverage	1
3.1 Geographic coverage	-
3.2 The coastal environment	2
3.3 Maritime Incidents	2
4 Plan structure	2
4.1 Overview	2
4.2 Rules	3
5 Plan mechanisms	4
5.1 Introduction	4
5.2 Zoning and overlays	4
6 Roles and responsibilities of other agencies	4
6.1 District and city councils	4
6.2 Department of Internal Affairs	5
6.3 Maritime New Zealand	5
6.4 Ministry for Primary Industries	5
6.5 Department of Conservation	5
6.6 Environmental Protection Authority (EPA)	6
6.7 Ministry for the Environment	6
6.8 Office of Treaty Settlements	6
7 Other policy documents	6
7.1 New Zealand Coastal Policy Statement 2010	6

7.2	The Bay of Plenty Regional Policy Statement 2014	7
7.3	National Policy Statement on Electricity Transmission	7
7.4	The National Environmental Standards for Electricity Transmission Activities	7
7.5	National Policy Statement for Renewable Energy Generation 2011	8
Part Two: Issues and objectives for the coastal environment		9
1	Issues	11
1.1	Integrated Management	11
1.2	Natural Heritage	11
1.3	Water Quality	12
1.4	Iwi Resource Management	13
1.5	Historic Heritage	14
1.6	Coastal Hazards and Climate Change	15
1.7	Recreation	15
1.8	Activities in the coastal marine area	16
1.9	Aquaculture issues	16
1.10	Harbour Development Zone	17
1.11	Port Zone	18
2	Objectives	18
2.1	Integrated management	18
2.2	Natural Heritage	19
2.3	Water Quality	20
2.4	Iwi Resource Management	20
2.5	Historic Heritage	21
2.6	Coastal Hazards	21
2.7	Recreation	21
2.8	Activities in the Coastal Marine Area	22
2.9	Harbour Development Zone	23

2.10	Port Zone	24
Part Three: Resource management policies to achieve integrated management of the coastal environment		25
1	Integrated Resource Management (IR)	27
1.1	Policies	27
2	Natural Heritage (NH)	27
2.1	Policies	27
3	Water Quality (WQ)	35
3.1	Policies	35
4	Iwi Resource Management (IW)	37
4.1	Policies	37
5	Historic Heritage (HH)	40
5.1	Policies	40
6	Coastal Hazards (CH)	41
6.1	Policies	41
7	Recreation, public access and open space (RA)	49
7.1	Policies	49
Part Four: Activity-based policies and rules		55
1	Structures and occupation of space in the Coastal Marine Area (SO)	57
1.1	Policies	57
1.2	Rules	62
2	Disturbance, deposition and extraction (DD)	77
2.1	Policies	77
2.2	Rules	81

2.3	Policies and Rules for Mangrove Management	95
3	Coastal discharges (CD)	107
3.1	Policies	107
3.2	Rules and Regulations	112
3.3	Regulations For Information Only – not part of the Regional Coastal Environment Plan	113
3.4	Rules	115
4	Reclamation (RM)	123
4.1	Policies	123
4.2	Rules	125
5	Taking, using, damming or diversion of coastal water (TD)	128
5.1	Policies	128
5.2	Rules	128
6	Aquaculture (AQ)	129
6.1	Policies	129
6.2	Aquaculture rules	133
7	Biosecurity (BS)	141
7.1	Policies	141
7.2	Rules	143
8	Harbour Development Zone (HD)	145
8.1	Policies	145
8.2	Rules	148
9	Port Zone (PZ)	160
9.1	Policies	160
9.2	Rules	162

10	Noise (NS)	171
10.1	Policies	171
10.2	Rules	171
11	Geothermal Resources (GR)	173
11.1	Policies	173
11.2	Rules	174
12	Summary of Rules	177
	Assessment Guidelines - Areas of significant cultural value	193
	Part Five	195
	Methods	195
1	Methods	197
1.1	Implementation, Monitoring and Reporting	197
1.2	Natural Heritage	197
1.3	Water Quality	198
1.4	Involvement of community groups and tangata whenua	200
1.5	Cultural and Historic Heritage	201
1.6	Recreation and Public Space	203
1.7	Coastal Hazards	204
1.8	Vessel Routing	204
1.9	Biosecurity	204
1.10	Motiti Natural Environment Management Area	204

Definitions	205
Definitions of terms used in the Regional Coastal Environment Plan:	205
Part Six: Schedules to the Regional Coastal Environment Plan	219
Schedule 1 – River mouths and CMA boundaries	221
Schedule 2 – Indigenous Biological Diversity Areas in the Coastal Environment	225
Schedule 2A - Indigenous Biological Diversity Area A with bird roosting sites present in Tauranga Harbour, Kaituna/Maketū area, Whakatane Estuary and Ōhiwa Harbour	283
Schedule 3 – Outstanding Natural Features and Landscapes in the Coastal Environment	285
Schedule 4 – Management guidelines for natural features and landscapes	361
Schedule 5 – Regionally Significant Surf Breaks	373
Schedule 6 – Areas of Significant Cultural Value	375
Schedule 7 – Historic Heritage Inventory	385
Schedule 8 – Harbour Development Zones	387
Schedule 9 – Outline Development Plan for the Port of Tauranga 2013	391
Schedule 10 – Water Quality Classifications	403
Schedule 11 – Financial Contributions	405
Schedule 12 – High Risk Facilities	411
Schedule 13 – Principles on Biodiversity Offsets	415
Schedule 14 – Marine and Coastal Area (Takutai Moana) Act 2011	417
Schedule 15 – Offshore Islands	421
Schedule 16 – Motiti Protection Areas within the Motiti Natural Environment Management Area	423
Schedule 17 – Motiti Natural Environment Management Area – Values and Attributes	425

Refer to Volume 2 –Regional Coastal Environment Plan Maps – Mahere Pukapuka

The planning maps identify various sites of significance, zones and existing uses in the coastal environment. The coastline has been split into 45 areas, and three maps have been produced for each of the areas along the coastline. Additional maps (46-52) are included that clearly show the locations of the Harbour Development Zone.

All maps show the landward extent of the coastal environment, as identified in the RPS.

Map series a – Landscape

Map series b – Ecology, Culture and Heritage

Map series c – Use

(h) Cables or pipes attached to bridges.

For the avoidance of doubt, this rule covers:

- (i) The erection or placement, alteration, extension or removal of structures.
- (ii) The use of structures.
- (iii) Occupation of space in the common marine and coastal area by the structure.
- (iv) Disturbance of the foreshore and seabed associated with the activity.
- (v) Deposition of material in the coastal marine area associated with the activity.

Advisory note:

- 1 In the event of any inconsistency with the National Environmental Standards for Electricity Transmission Activities, the Standard prevails over any Rule in this Plan.

Rule SO 17 Prohibited – New Structures in Indigenous Biological Diversity Area A or an Area of Outstanding Natural Character not otherwise provided for

The erection, reconstruction, placement, alteration, or extension of any structure on the foreshore or seabed in any Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) or an Area of Outstanding Natural Character (as identified in Appendix I to the Regional Policy Statement), is a prohibited activity, except where the structure is:

- (a) A permitted activity under Rules SO 4 or SO 6; or
- (b) A discretionary activity under Rule SO 12; or
- (c) A non-complying activity under Rule SO 13 or Rule SO 15.

2 Disturbance, deposition and extraction (DD)

This section does not cover activities in the Port Zone or the Harbour Development Zone, unless specific reference is made in those sections to provisions in this section.

2.1 Policies

- Policy DD 1 Avoid the adverse effects of disturbance and deposition within the coastal marine area caused by disposal of spoil from land-based activities.
- Policy DD 2 Restrict the use of vehicles on the foreshore and seabed to those which have a legitimate need to use such areas.

- Policy DD 3 Disturbance and deposition associated with temporary activities undertaken by the New Zealand Defence Force is appropriate except in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) or an Outstanding Natural Character Area (as identified in Appendix I to the RPS).
- Policy DD 4 Recognise that dredging, disturbance and deposition is necessary to protect the integrity of Existing River Schemes and Land Drainage Schemes.
- Policy DD 5 Where estuaries are being adversely affected by Existing River Schemes and Land Drainage Schemes, remedial work shall be undertaken, where practicable, when maintenance or additional works are undertaken. Remedial work may include measures to:
- (a) Improve connections between water bodies or between freshwater bodies and coastal water;
 - (b) Reinststate fish passage;
 - (c) Incorporate appropriate planting or other methods that provide habitat for indigenous species;
 - (d) Provide for spawning of indigenous fish;
 - (e) Fence or otherwise protect estuary and river margins from stock access; or
 - (f) Restore cultural landscape features.
- Policy DD 6 Discourage channelization or piping of watercourses flowing into estuaries or harbours.
- Policy DD 7 Activities that cause disturbance of the foreshore and seabed shall:
- [a] Be undertaken at times of the day or year and using methodologies, that will avoid significant adverse effects and remedy or mitigate other adverse effects on the environment, particularly on:
 - (i) The feeding, spawning and migratory patterns of indigenous fauna, including bird roosting, nesting and feeding, and whitebait runs;
 - (ii) Indigenous ecosystems and habitats that are particularly vulnerable to modification, including: estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh; and
 - (iii) Habitats of indigenous species that are important for recreational, commercial, cultural or traditional purposes, including traditional Māori gathering, collection or harvest of kaimoana; and
 - [b] Ensure that the foreshore or seabed is, as far as practicable, reinstated in a manner which is in keeping with the natural character and visual amenity of the area;
 - [c] Avoid significant adverse effects on biota caused by the release of contaminants; and

- (d) Be undertaken at times of the day or year, and using methodologies, that will avoid as far as practicable, remedy or mitigate adverse effects on:
 - (i) Recreational use of the coastal marine area; and
 - (ii) Other lawfully established activities in the coastal marine area.

Policy DD 7A Provide for scientific research activities (including those based on Mātauranga Maori) that contribute to a better understanding of subtidal marine habitats, biodiversity and ecosystems in the coastal marine area, and the effects of other activities on those species, habitats and ecosystems.

Advisory note:

- 1 Policies NH 5, NH 6, NH 7, NH 16, and NH 17 apply if an activity may have adverse effects on the values and attributes of an Indigenous Biological Diversity Area A (IBDAA) identified in Schedule 2, Table 1.

2.1.1 Additional policies for mineral extraction

Policy DD 8 Disturbance of the foreshore and seabed associated with prospecting for, exploration for, and mining of sand, shell, shingle and other natural material from an Outstanding Natural Character area (as identified in Appendix I to the RPS) or an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) is inappropriate.

Policy DD 9 A precautionary approach to the removal of sand, shell, shingle and other natural materials, or dredging within the coastal marine area will be taken in recognition of:

- (a) The importance of maintaining the ability of coastal land forms to resist erosion and flooding;
- (b) The limited knowledge of coastal processes in general and local sediment dynamics in particular;
- (c) Rising sea level and the impact this will have on beach erosion and coastal processes;
- (d) The limited knowledge and assessment of biodiversity values in the subtidal environment of the Bay of Plenty region; and
- (e) The matters listed in Policy 3(2) of the NZCPS.

Policy DD 10 Resource consents granted for sand, shell, shingle and/or mineral extraction shall include the following conditions as relevant to the size and effects of the activity:

- (a) The establishment and maintenance of suitable monitoring programmes by the operator to determine the extent of any adverse effects of the activity;
- (b) A requirement to review the extraction operation annually, with the power to reduce the amounts to be extracted over the subsequent 12 month period if the adverse effects of the activity justify a reduction; and
- (c) A requirement for bonds, financial contributions, or both.

2.1.2 Additional policies for dredging and spoil disposal

- Policy DD 11 Recognise the potential benefits of using sand from dredging for the purpose of beach replenishment or building up new high-tide bird roosts or breeding sites.
- Policy DD 12 Selection of deposition sites in the coastal marine area for dredging material will be subject to the following criteria:
- (a) Avoidance of adverse effects on areas of existing significant fisheries, or shell fisheries or other areas containing nationally rare or outstanding examples of indigenous ecological community types;
 - (b) Avoidance of areas of heavy commercial or recreational navigation;
 - (c) The capacity to return seawater to ambient conditions before reaching any beach (except where beach replenishment is one of the purposes of dredging), or significant fishery, shell fishery or identified area or value of significance;
 - (d) Minimum size to limit any adverse effects and to allow for effective monitoring to determine any adverse effects; and
 - (e) Maintenance of beaches and related sediment transport processes.
- Policy DD 13 Recognise that maintenance dredging is necessary for the continued operation of existing marinas and public boat ramps in the coastal marine area.
- Policy DD 14 Recognise that maintenance dredging of existing navigation and access channels, including river mouths, is necessary to provide for:
- (a) The efficient and safe operation of navigation and access channels;
 - (b) The servicing of local shipping; and
 - (c) Efficient connections with other transport modes.
- Policy DD 15 Dredging and spoil disposal activities shall use methods of dredging, spoil transport and spoil disposal designed and operated to:
- (a) Minimise adverse effects on:
 - (i) The benthic community adjacent to the area to be dredged or dumped on;
 - (ii) Recreational and commercial activities; and
 - (iii) Cultural and social values; and
 - (b) Reduce adverse effects on water quality to comply with the relevant Water Quality Classification Standards and Criteria in Schedule 10.

Advisory note:

- 1 Applications to deliberately dispose of (dump) dredge material in the coastal marine area must include an assessment undertaken in accordance with Schedule 3 to the Resource Management (Marine Pollution) Regulations 1998.

2.2 Rules**Rule DD 1 Permitted – Channel clearance and maintenance of existing diversions in artificial watercourses or modified watercourses outside Indigenous Biological Diversity Areas identified in Schedule 2, Table 1**

The disturbance of the foreshore or seabed of existing artificial watercourses or modified watercourses for the purposes of channel clearance and associated diversion of coastal water, or maintaining existing diversions and associated diversion of coastal water, or maintaining an existing land drainage function, is a permitted activity, subject to following conditions:

- (a) The activity is not in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1).
- (b) The activity shall not:
 - (i) Divert any part of the river or stream to a new course;
 - (ii) Result in the infilling of the existing bed; or
 - (iii) Lead to erosion or instability of the banks.
- (c) All material and sediment shall be removed from the foreshore and seabed, placed in a stable position, and all reasonable steps shall be taken to prevent the dredged material and sediment from entering coastal or other waters.
- (d) The activity shall not damage or disturb a site listed in the Regional Historic Heritage Inventory in Schedule 7.
- (e) Machinery shall not be located or driven on the foreshore or seabed unless there is no practical alternative. Disturbance of the foreshore and seabed by vehicle movements shall be limited to the extent necessary to complete the works.
- (f) No work shall be undertaken in the wetted part of the channel between 1 March and 31 May or between 15 August and 15 October inclusive.
- (g) No refuelling activities or fuel storage shall be carried out within the coastal marine area or on the foreshore within 20 metres landward of mean high water springs. Methods shall be employed to minimise any fuel spillage, including the provision of appropriate security and containment measures.
- (h) The bed must be restored to a profile that does not inhibit water flow or prevent fish passage upstream or downstream in water bodies that contain fish.

Advisory notes:

- 1 Activities undertaken to maintain Existing River Schemes and Land Drainage Schemes operated by the Regional Council and the Waihi Drainage District Society Incorporated that do not fall within Rule DD 1 are controlled activities under Rule DD 10. This includes maintenance dredging and works in an Indigenous Biological Diversity Area A.
- 2 Maintenance dredging, channel widening and works in an Indigenous Biological Diversity Area A undertaken to prevent existing houses from flooding, where the works are not part of Existing River Schemes and Land Drainage Schemes operated by the Regional Council and the Waihi Drainage District Society Incorporated, is a controlled activity under Rule DD 11.
- 3 Landowner approval should be sought before undertaking maintenance works landward of the coastal marine area, for example in reserve land owned by a district or city council.

Rule DD 2 Permitted – Burial of dead animals

The disturbance of the foreshore or seabed, and deposition of material, for the purposes of the burial of dead animals washed up on the foreshore is a permitted activity, subject to the following condition:

- (a) The activity shall not damage or disturb a site listed in the Regional Historic Heritage Inventory in Schedule 7.
- (b) The works shall be undertaken by the Regional Council, a territorial authority, the Department of Conservation or agents of those organisations.

Advisory note:

- 1 Landowner approval should be sought before burying dead animals landward of the coastal marine area, for example in reserve land owned by a district or city council.

Rule DD 3 Permitted – Temporary military training activities of the New Zealand Defence Forces

The disturbance of, and deposition on, the foreshore or seabed for temporary military training activities of the New Zealand Defence Forces, where the activity is:

- 1 Not artillery gunfire, naval gunfire, or aerial bombardment, for military training; and
- 2 Not in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) or Outstanding Natural Character Area (as identified in Appendix I to the RPS),

is a permitted activity, subject to the following conditions:

- (a) Regional Council, Department of Conservation, adjacent territorial authorities, and the relevant iwi authority shall be advised five working days before the training takes place.

The activity shall not damage or disturb a site listed in the Regional Historic Heritage Inventory in Schedule 7.

Rule DD 4 Permitted – Taking of driftwood without use of vehicles on the foreshore

The disturbance of the foreshore and seabed for the taking of driftwood from the coastal marine area is a permitted activity, subject to the activity not involving the use of vehicles on the foreshore or seabed.

Rule DD 5 Permitted – Planting indigenous plant species

The disturbance of the foreshore and seabed associated with the planting of indigenous plant species is a permitted activity, subject to the following conditions:

- (a) The disturbance of the foreshore or seabed shall be limited to the extent necessary to carry out the activity; and
- (b) The activity shall not adversely affect a site of historic heritage in Schedule 7.

Rule DD 6 Permitted – Wetland enhancement in the Coastal Marine Area

The modification of a wetland in the coastal marine area for the purposes of wetland maintenance or enhancement, where:

- * The activity is undertaken in accordance with either:
 - (a) A Coastal Wetland Management Agreement or Biodiversity Management Plan with the Regional Council; or
 - (b) A Reserve Management Plan prepared by a district or city council, the Department of Conservation, or the Regional Council; or a Conservation Management Strategy prepared by the Department of Conservation.
- ∇ The maintenance or enhancement is restricted to the activities in the table below.

Activity		Relevant Permitted Activity conditions
(a)	The disturbance of the foreshore and seabed resulting from the removal of rubbish and debris using machinery. For the purposes of this rule: 'Rubbish' is any material from human activities. 'Debris' is vegetation and tree material from flood events.	(a) to (j) inclusive
(b)	The erection, reconstruction, placement, alteration, extension or removal of a structure for the purpose of improving public walking access to and along the coastal marine area, or for education. This includes, but is not limited to, boardwalks and signs. This excludes maimai.	(a) to (j) inclusive
(c)	The disturbance of the foreshore and seabed by earthworks to remove excess sediment or spoil, or restore natural or existing stream meanders.	(a) to (j) inclusive
(d)	The disturbance of the foreshore and seabed by the planting of indigenous plant species.	(c) and (h)

	Activity	Relevant Permitted Activity conditions
(e)	<p>The disturbance of the foreshore and seabed for the removal of flood protection works or structures to allow coastal water into low-lying areas to restore or enhance wetlands.</p> <p>Advice Note – refer to the Regional Water and Land Plan for activities above mean high water springs, including earthworks on the coastal margin.</p>	(a) to (j) inclusive

is a permitted activity, subject to the following conditions:

- (a) Machinery shall not be located or driven on the foreshore unless there is no other alternative access available. Machinery and vehicles shall be driven along the high tide mark, or as close to the high tide mark as possible.
- (b) The works shall be carried out during low tide or at other times when the activity area is not covered by water.
- (c) The disturbance of the foreshore or seabed shall be limited to the extent necessary to carry out the activity.
- (d) No refuelling activities or fuel storage shall be carried out within the coastal marine area, on the foreshore or within 20 metres landward of mean high water springs. Methods shall be employed to avoid or minimise any fuel spillage, including the provision of appropriate security and containment measures, where necessary.
- (e) The activity shall not cause or induce erosion of the foreshore, seabed or banks of any river or stream. Erosion includes:
 - (i) Instability of land or margins; and
 - (ii) Scour to the foreshore or seabed.
- (f) All material, sediment or rubbish/debris, shall be removed from the foreshore and seabed, placed in a stable position, and all reasonable steps shall be taken to prevent the dredged material, sediment, rubbish or debris from entering coastal or other waters.
- (g) No works shall be carried out in tidal reaches of rivers and streams between 1 March and 31 May.
- (h) The activity shall not adversely affect a site of historic heritage in Schedule 7 or area of significant cultural value in Schedule 6.
- (i) The activity shall not cause reclamation of the coastal marine area.
- (j) The activity shall not prevent the passage of migrating fish.

Advisory notes:

- 1 Any activities for the maintenance or enhancement of wetlands in the coastal marine area that are not permitted by Rule DD 6 are discretionary activities under Rule DD 14 or DD 15.

- 2 This rule does not authorise the removal of mangroves. Refer to rules DD 19 25.
- 3 Coastal Wetland Management Agreements are completed by landowners or community groups in partnership with a Regional Council Land Management Officer. Templates for Coastal Wetland Management Agreements are available from the Regional Council, or on Council's website (www.boprc.govt.nz).
- 4 Refer to Rule BS 6 in Section 7 - Biosecurity for removal of exotic plant species.

Rule DD 6A Permitted - Specified activities in a Motiti Protection Area identified in Schedule 16

Unless consent is required under the Plan, the temporary or permanent damage or destruction or removal of plants or animals in a Motiti Protection Area within the Motiti Natural Environment Management Area (as identified in Schedule 16), is a permitted activity for the following purposes:

- (a) Resource consent monitoring undertaken in accordance with resource consent conditions;
- (b) State of the environment monitoring undertaken by the Regional Council, the Department of Conservation or their agents;
- (c) Marine biosecurity incursion investigation and/or response;
- (d) Wildlife rescue;
- (e) Monitoring and enforcement carried out by a regulatory agency;
- (f) Mooring, anchoring and hauling small vessels ashore; carried out by a regulatory agency;
- (g) Scientific research, conservation activities and monitoring undertaken by, under the supervision of, or on behalf of, the following agencies:
 - (i) Crown research Institutes;
 - (ii) Recognised Māori research entities;
 - (iii) Tertiary education providers;
 - (iv) Regional Councils;
 - (v) Department of Conservation;
 - (vi) Ministry for Primary Industries.

Rule DD 7 Permitted – Vehicle access and use

Disturbance of the foreshore or seabed by the use of vehicles, where the activity:

- 1 Is associated with the use of a legally authorised structure in, or partly in, the coastal marine area, which provides for or requires vehicle access; or
- 2 Is associated with vehicle access to offshore islands in areas where access points are identified in Schedule 15; or

- 3 Is associated with conservation management activities undertaken in accordance with:
 - (a) A Coastal Wetland Management Agreement or Biodiversity Management Plan with the Regional Council; or
 - (b) A reserve management plan prepared by a district or city council or the Regional Council; or a Conservation Management Strategy or Conservation Management Plan prepared by the Department of Conservation; or
- 4 Is associated with environmental monitoring undertaken by city, district or regional councils or consent holders where the vehicle used has a gross weight of less than 3,000 kilograms; or
- 5 Is associated with the use of navigational safety equipment by the Port of Tauranga Limited or Regional Council where the vehicle used has a gross weight of less than 3,000 kilograms; or
- 6 Is permitted under Rule BS 1; or
- 7 The vehicle use is not in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) and is for one or more of the following purposes:
 - (a) Burial of dead animals by the Department of Conservation, a local authority, or their delegated agent;
 - (b) The removal of litter, nuisance matter (including the accumulation of algae), and debris by a local authority or their agent;
 - (c) Beach-grooming by a local authority or their agent when provided for in a current Reserve Management Plan for the area;
 - (d) Removal of driftwood by a local authority or their agent, where the driftwood may affect navigation and safety of vessels, or is causing an obstruction to the flow of water;
 - (e) The launching or retrieval of vessels at the closest practical point along the seashore from the vehicle access;
 - (f) The transportation of recreational equipment to the water's edge at the closest practical point along the seashore from the vehicle access;
 - (g) Coast Care and Estuary Care projects unless associated with mangrove management activities, which are controlled by Rules DD 19 to DD 25;
 - (h) Use of land yachts;
 - (i) Setting up and running of temporary recreational events that are permitted by Rule SO 1;
 - (j) Access for people with disabilities at the closest practical point along the seashore from the vehicle access;
 - (k) Maintenance of infrastructure;

- (l) New Zealand Defence Force temporary military training activities, provided that Regional Council, the Department of Conservation and adjacent territorial authorities have been advised before the training takes place, and the activity is otherwise permitted by Rule DD 3 (Temporary military training activities of the New Zealand Defence Forces);
- (m) Local authority, Government, and educational institutions carrying out data collection, monitoring and maintenance activities, including the investigation of storm damage, where the vehicles do not exceed 1.8 tonnes kerb weight,
- (n) The Department of Conservation's statutory functions,

is a permitted activity, subject to the following conditions:

- (a) No contaminants shall be discharged to water or land from the vehicle;
- (b) There shall be no use of vehicles on shellfish beds, vegetated areas, or bird nesting areas during nesting season;
- (c) No vehicles shall be operated at a speed greater than 15 km/hr;
- (d) The vehicle shall take the most direct route, and shall only operate within the area necessary to carry out the activity to ensure minimal disturbance to the foreshore and seabed;
- (e) Where vehicle use is to launch or retrieve a vessel, or transport recreational equipment to the water's edge, the vehicle shall not be parked on the beach;
- (f) Designated vehicle access points shall be used.

Advisory notes:

- 1 District and city councils may also have regulations and bylaws that control the use of vehicles on beaches. Compliance with those provisions is also required.
- 2 In relation to condition (e), vehicles should be parked in designated areas near the vehicle access point used to get to the beach. Where designated parking areas are not available, vehicles should park near the vehicle access point in a location that avoids congestion of the access way.

Rule DD 8 Permitted – Vehicle access/use for emergency or law enforcement

The disturbance of foreshore or seabed in any area by the use of vehicles for the following purposes:

- 1 Surf lifesaving operations;
- 2 Emergency situations, including (but not restricted to) firefighting, oil spills, rescue operations, salvage of vessels and sea mammal strandings; and
- 3 Law enforcement activities, provided the vehicles do not exceed 1.8 tonnes kerb weight,

is a permitted activity, subject to the following conditions:

- (a) No contaminants shall be discharged to water or land from the vehicle.
- (b) The use of vehicles on shellfish beds, vegetated areas, or bird nesting areas during nesting season, shall be avoided whenever reasonable.
- (c) The vehicle shall take the most direct route, and shall only operate within the area necessary to carry out the activity to ensure minimal disturbance to the foreshore and seabed.

Rule DD 9 Controlled – Soft Protection Methods

The disturbance of the foreshore and seabed associated with beach replenishment or renourishment; dune slope modification; or dune rebuilding; is a controlled activity subject to the following conditions:

- (a) The works are undertaken for the purpose of providing protection against coastal hazards; and
- (b) The works are designed by a suitably qualified and experienced professional.

The Regional Council reserves control over the following matters:

- (a) Duration of the consent.
- (b) Information and monitoring requirements.
- (c) The quantity, nature and composition of the material to be disturbed or deposited.
- (d) Measures to avoid, remedy or mitigate any adverse effects on indigenous flora, fauna, natural character, historic heritage sites or cultural values.
- (e) The location and method of disturbance and deposition.
- (f) The frequency and timing of disturbance and deposition.
- (g) Planting of appropriate indigenous species.

Rule DD 10 Controlled – Maintenance of Existing River Schemes and Land Drainage Schemes

The operation and maintenance of Existing River Schemes and Land Drainage Schemes, including any associated disturbance of, deposition on, or dredging of the foreshore or seabed and associated diversion of coastal water that is not permitted by Rule DD 1 is a controlled activity subject to the following conditions:

- (a) The Existing River Schemes and Land Drainage Schemes must be operated by either:
 - (i) The Regional Council or its agents; or
 - (iv) Waihi Drainage District Society Incorporated.
- (b) The purpose of the works is not to create new Existing River Schemes and Land Drainage Schemes, or to extend existing

The Regional Council reserves control over the following matters:

- (a) Duration of the consent.

- (b) Information and monitoring requirements.
- (c) The quantity, nature and composition of the material to be disturbed, dredged or deposited.
- (d) Measures to avoid, remedy or mitigate any adverse effects on indigenous flora, fauna, natural character, historic heritage sites or cultural values.
- (e) The location and method of disturbance, diversion, deposition or dredging.
- (f) The frequency or timing of disturbance, diversion, deposition or dredging.
- (g) The design and dimensions of the diversion.
- (h) Restoration or rehabilitation of the natural character of estuaries or wetlands.

Rule DD 11 Controlled – Maintenance of artificial or modified watercourses to protect houses from flooding

The widening or dredging of any existing artificial watercourses or modified watercourses in the coastal marine area for the purpose of protecting existing houses from flooding, and associated diversion of coastal water; and

The disturbance of the foreshore or seabed of existing artificial watercourses or modified watercourses that are not in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1), for the purposes of channel clearance that does not meet the conditions of Rule DD 1, and associated diversion of coastal water;

is a controlled activity, subject to the following standards and terms:

- (a) The works shall be carried out by the Regional Council, a territorial authority, or their respective agents.
- (b) The activity shall not damage or disturb a site listed in the Regional Historic Heritage Inventory in Schedule 7.

The Regional Council reserves control over the following matters:

- (a) Duration of the consent.
- (b) Information and monitoring requirements.
- (c) The quantity, nature and composition of the material to be disturbed, dredged or deposited.
- (d) Measures to avoid, remedy or mitigate any adverse effects on indigenous flora, fauna, natural character or cultural values.
- (e) The location and method of disturbance, deposition or dredging.
- (f) The frequency or timing of disturbance, deposition or dredging.

For the avoidance of doubt, this rule covers the following matters:

- (i) Activities in existing artificial watercourses or modified watercourses in any part of the coastal marine area.
- (ii) Disturbance of foreshore and seabed, and disturbance or damage to vegetation and habitats, resulting from the dredging of existing artificial watercourses or modified watercourses.
- (iii) Diversion of water within existing artificial watercourses or modified watercourses.
- (iv) Opening up of existing artificial watercourses or modified watercourses to allow free flow of water and drainage of water from inundated land.

Advisory note:

- 1 Heritage New Zealand Pouhere Taonga should be consulted regarding any proposal that may damage or destroy a historic heritage site.

Rule DD 12 **Restricted discretionary – Maintenance of existing artificial watercourses or modified watercourses and the opening of natural stream mouths by the Regional Council and territorial authorities in significant indigenous biological diversity areas.**

The clearing or maintenance of existing artificial watercourses or modified watercourses and the opening of natural stream mouths in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) and associated diversion of coastal water and where the purpose of the activity is not specified in Rule DD 18, is a restricted discretionary activity, subject to the following standards and terms:

- (a) The works shall be carried out by the Regional Council, territorial authorities or their agents.
- (b) The activity shall not damage or disturb a site listed in the Regional Historic Heritage Inventory in Schedule 7.

The Regional Council restricts its discretion to the following matters:

- (a) Duration of the consent.
- (b) Information and monitoring requirements.
- (c) The quantity, nature and composition of the material to be disturbed, dredged or deposited.
- (d) Any adverse effects on indigenous flora, fauna, natural character or cultural values.
- (e) The location, design and method of disturbance, deposition, diversion or dredging.
- (f) The frequency or timing of disturbance, deposition, diversion or dredging.

For the avoidance of doubt, this rule covers the following matters:

- (i) Disturbance of foreshore and seabed, and disturbance or damage to vegetation and habitats, resulting from the

- dredging of existing artificial watercourses and modified watercourses.
- (ii) Diversion of water within existing artificial watercourses and modified watercourses.
- (iii) Opening up of existing artificial watercourses, modified and natural watercourses to allow free flow of water and drainage of water from land.

Advisory note:

- 1 Heritage New Zealand Pouhere Taonga should be consulted regarding any proposal that may damage or destroy a historic heritage site.

Rule DD 13 Restricted Discretionary – Dredging of existing navigational and access channels, marinas, boat ramps, wharves, jetties and pontoons

The disturbance or dredging of the foreshore or seabed in existing navigational and access channels, marinas, boat ramps, wharves, jetties and pontoons where the channel is not within the Harbour Development Zone or the Port Zone, is a restricted discretionary activity.

The Regional Council restricts its discretion to the following matters:

- (a) The duration of the consent.
- (b) Information and monitoring requirements.
- (c) The quantity, nature and composition of the material to be disturbed or dredged.
- (d) Measures to avoid, remedy or mitigate any adverse effects on natural heritage, amenity and cultural values.
- (e) The location of the disposal site for dredged material.
- (f) Navigation safety.
- (g) Measures to avoid, remedy or mitigate any adverse effects on water quality.
- (h) Noise.

For the avoidance of doubt, this rule covers:

- (i) Disturbance of the foreshore and seabed associated with the activity.
- (ii) Deposition of material in the coastal marine area associated with the activity.

Rule DD 14 Discretionary – Disturbance of, deposition on, dredging of, or removal of sand, shingle and shell

The:

- 1 Disturbance of the foreshore or seabed.
- 2 Deposition of material on the foreshore or seabed, including disposal of spoil.

- 3 Removal of sand, shell, shingle and minerals from the foreshore or seabed.
- 4 Dredging of the foreshore or seabed.
- 5 Removal, damage, modification or destruction of indigenous vegetation that is growing in the foreshore or seabed.

that is not a permitted, controlled, restricted discretionary, non-complying or prohibited activity under a rule in this Plan, is a discretionary activity.

For the avoidance of doubt, this rule includes, but is not limited to:

- (a) Disturbance of, or deposition on, the foreshore or seabed resulting from artillery gunfire, naval gunfire, or aerial bombardment, for military training, where outside areas of Outstanding Natural Character (as identified in Appendix I to the RPS).
- (b) Removal for profit (mining) of sand, shell and shingle from outside the active beach system of the open coast (where the active beach system is that area on the open coast between the 8.5 metre bathymetric contour and mean high water springs) unless in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) or Outstanding Natural Character area (as identified in Appendix I to the RPS).
- (c) Removal for profit (mining) of minerals other than sand, shell and shingle from within the coastal marine area unless in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) or Outstanding Natural Character area (as identified in Appendix I to the RPS).
- (d) Disposal to the coastal marine area of spoil from sand, shell, shingle or mineral removal for profit (mining) unless in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) or Outstanding Natural Character area (as identified in Appendix I to the RPS).
- (e) The widening, clearing, dredging or maintenance of existing artificial watercourses or modified watercourses in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1).

Rule DD 15

Discretionary – Disturbance, deposition and extraction in Indigenous Biological Diversity Area A and areas of Outstanding Natural Character – specific circumstances

The:

- 1 Disturbance of the foreshore or seabed.
- 2 Deposition of material on the foreshore or seabed, including disposal of spoil.
- 3 Removal of sand, shell, shingle and minerals from the foreshore or seabed.
- 4 Dredging of the foreshore or seabed.
- 5 Removal, damage, modification or destruction of indigenous vegetation that is growing in the foreshore or seabed.

In an Indigenous Biological Diversity Area A or area of Outstanding Natural Character (as identified in Appendix I to the RPS) that is not otherwise a permitted, controlled, restricted discretionary activity or prohibited activity under a rule in this Plan is a discretionary activity where the activity is one for one or more of the following purposes:

- (a) Providing protection, restoration or rehabilitation for the biodiversity or natural character values associated with such areas;
- (b) Improving water quality, connections between water bodies or between freshwater bodies and coastal water, or other natural processes in the Area;
- (c) Providing educational, scientific or passive recreational opportunities that will enhance the understanding and long-term protection of the biodiversity values or natural character of the area;
- (d) The operation, maintenance and protection of existing and new regionally significant infrastructure;
- (e) The maintenance or enhancement of navigational safety in permanently navigable harbour waters;
- (f) Dredging and other disturbance of the foreshore and seabed in existing artificial watercourses or modified watercourses;
- (g) The operation, maintenance and protection of Existing River Schemes and Land Drainage Schemes; or
- (h) Use and development listed in Schedule 15 Offshore Islands.

Rule DD 16 Non complying – Specified activities in the coastal marine area

The following activities are non-complying activities in the coastal marine area:

- 1 Disturbance of the foreshore and seabed associated with prospecting for, exploration for, and mining of sand, shell, shingle and minerals in an Outstanding Natural Feature and Landscape as identified in Schedule 3; and
- 2 Disturbance of the foreshore and seabed associated with prospecting for, exploration for, and extraction of petroleum products in an Outstanding Natural Feature and Landscape as identified in Schedule 3.

Rule DD 17 Prohibited – Fracking in the Coastal Marine Area

Fracking (hydraulic fracturing) in the coastal marine area is a prohibited activity.

This rule applies to the following matters associated with fracking:

- 1 Erection or placement of a structure in, on, under or over the foreshore or seabed.
- 2 Disturbance of the foreshore and seabed.
- 3 Deposition of any substance in, on or under the foreshore and seabed.
- 4 Discharge of contaminants in the coastal marine area.

Rule DD 18 Prohibited – Specified activities in the coastal marine area

The following activities are prohibited activities in the coastal marine area unless specifically provided for by another rule in this Plan:

- 1 Construction of new artificial watercourses or modification of natural watercourses in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) or Outstanding Natural Character area (as identified in Appendix I to the RPS).
- 2 Disturbance of the foreshore and seabed associated with prospecting for, exploration for, and mining of sand, shell, shingle and minerals, dredging and spoil disposal, in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) or Outstanding Natural Character area (as identified in Appendix I to the RPS).
- 3 Disturbance of the foreshore and seabed associated with prospecting for, exploration for, and extraction of petroleum products in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1) or Outstanding Natural Character area (as identified in Appendix I to the RPS).
- 4 Disposal of any spoil from land-based activities, excluding spoil from the diversion of coastal water, reclamation and beach replenishment.
- 5 Stock grazing and access, excluding horses.
- 6 The removal for profit (mining) of sand, shell and shingle from within the active beach system on the open coast (where the active beach system is that area on the open coast between the 8.5 metre bathymetric contour and mean high water springs).
- 7 Disturbance of, or deposition on, the foreshore or seabed resulting from artillery gunfire, naval gunfire, or aerial bombardment, for military training in areas of Outstanding Natural Character (as identified in Appendix I to the RPS).
- 8 The disturbance of foreshore or seabed by the use of vehicles in an Indigenous Biological Diversity Area A (as identified in Schedule 2, Table 1), except where the activity is permitted by Rule DD 7 or a consent has been obtained in accordance with the requirements of Rules SO 12, SO 15 or Rule DD 15.
- 9 The temporary or permanent damage or destruction or removal of plants or animals in a Motiti Protection Area within the Motiti Natural Environment Management Area (as identified in Schedule 16).

Advisory notes:

- 1 In relation to 1 above, the maintenance of existing artificial watercourses or modified watercourses in the Indigenous Biological Diversity areas identified in Schedule 2, Table 1 is addressed by Rules DD 11, DD 12 and DD 14.
- 2 In relation to 5 above, horse access and trekking along the coast may also be regulated by territorial authority bylaws. Compliance with the bylaws is also required.
- 3 For the purpose of this Rule, removal includes the catching, taking or harvesting of plants and / or animals.



Proposed Regional Plan for Northland

February 2024

Regional Plan for Northland - operative in part

The Regional Plan for Northland (including the Regional Coastal Plan) was prepared by the Northland Regional Council under the Resource Management Act 1991 (The Act).

At its meeting of 31 August 2023, the Northland Regional Council adopted the Regional Plan in part for reference to the Minister of Conservation in accordance with Clause 18 of Schedule 1 of the Act.

The common seal of the Northland Regional Council was hereto affixed in the presence of:



Jonathan Gibbard
Chief Executive Officer

Tui Shortland
Kahurangi | Chair

The Minister of Conservation approved the Regional Plan for Northland (operative in part) by signing it on 13 October 2023

Hon Willow-Jean Prime
Minister of Conservation

Contents

Karakia	3
Whakatauaikī	3
Mihi.....	4
A Introduction Tīmatanga Kōrero	5
B Definitions Whakamāramatanga	7
C Rules Ngā ture	32
C.1 Coastal activities	36
C.2 Activities in the beds of lakes and rivers and in wetlands	111
C.3 Damming and diverting water	132
C.4 Land drainage and flood control.....	139
C.5 Taking and use of water.....	146
C.6 Discharges to land and water.....	154
C.7 Discharges to air.....	197
C.8 Land use and disturbance activities.....	213
D Policies Ngā kaupapa	229
Application of objectives and policies.....	230
D.1 Tāngata whenua.....	235
D.2 General.....	239
D.3 Air.....	250
D.4 Land and water	253
D.5 Coastal.....	264
D.6 Natural Hazards.....	277
E Catchments Ngā whaitua.....	279
E.1 Objective	280
E.2 Policy	280
E.3 Rules.....	281
F Objectives Ngā whāinga	290
G Administrative matters Ngā take whakahaere.....	295
G.1 Cross-River Coastal Marine Area Boundary.....	296
G.2 Statutory acknowledgements	298
G.3 Coastal occupation charging.....	298

H Appendices Āpiti hanga	299
H.1 Stack height requirements	300
H.2 Erosion Control Plans	302
H.3 Water quality standards and guidelines	303
H.4 Environmental flows, levels and allocations	309
H.5 Managing groundwater and surface water connectivity	313
H.6 Wetland definitions relationship	315
H.7 Interpretation of noxious, dangerous, offensive and objectionable effects	317
H.8 In-Water Hull Cleaning	319
H.9 Regionally Significant Infrastructure	321
H.10 Agrichemical Requirements	323
H.11 Schedule of Characteristics, qualities and values - Te Hā o Tangaroa Protection Areas	327
I Maps Ngā mahere matawhenua	338
J Record of amendments	350
K Record of map amendments	358



C.1.5 Dredging, disturbance and disposal

C.1.5.1 Conditional use of vehicles on the foreshore or seabed – permitted activity

The use of a vehicle on the foreshore or seabed and any associated disturbance of the foreshore and seabed is a permitted activity, provided that apart from emergency services vehicles providing an emergency response⁹:

- 1) vehicle access to the foreshore is only via **authorised** or existing lawful vehicle access points; and
- 2) there is no disturbance of, or damage to, indigenous or migratory bird nesting or roosting sites; and
- 3) there is no disturbance of, or damage to, a mapped **Historic Heritage Area** (refer [I Maps | Ngā mahere matawhenua](#)); and
- 4) there is no disturbance of, or damage to, a mapped Site or Area of Significance to Tāngata Whenua (refer [I Maps | Ngā mahere matawhenua](#)); and
- 5) vehicles do not drive over pipi or cockle beds except where necessary for the use, maintenance, repair or removal of infrastructure, and do not damage or destroy other shellfish beds¹⁰; and
- 6) vehicles do not drive over saltmarsh, saltmeadow, saltmeadow turfs, seagrass meadows¹¹, mangroves or mangrove aerial roots (pneumatophores) and do not damage or destroy other **indigenous vegetation**; and
- 7) vehicles do not drive on the foreshore or seabed within a mapped Vehicle Exclusion Zone (refer [I Maps | Ngā mahere matawhenua](#)) unless the activity is for one or more of the following listed activities:
 - a) access to **property** where the only access is via the coastal marine area, or
 - b) the launching or retrieval of **vessels** at the closest practicable point¹² along the foreshore from the vehicle access, or
 - c) the use, maintenance, repair or removal of an **authorised structure** (including **hard protection structures, aids to navigation structures** and infrastructure **structures**), or
 - d) conservation and reserve management activities undertaken by, or formally on behalf of, the Department of Conservation or local authority in accordance with its statutory functions, or
 - e) environmental monitoring or data collection undertaken by consent holders, the Regional Council, district councils, universities and research institutes (such as NIWA), or their **authorised** agents, or
 - f) kaitiakitanga monitoring in accordance with **Mātauranga Māori**, or
 - g) access to customary marine title group where the only access is via the coastal marine area, or
 - h) attending to a rescue of stranded marine mammals, or
 - i) burial of dead animals or marine mammals (including the customary processing of carcasses before burial) by the Department of Conservation, tangata whenua, local authority or their delegated agents, or

⁹ Including, but not limited to, surf lifesaving operations, law enforcement operations and works undertaken by a local authority or network utility operator (in relation to any project or work that is approved as a requiring authority) for the purpose of emergency works as defined by sections 330 or 330B of the Resource Management Act 1991.

¹⁰ This rule does not apply to the use of vehicles in the harvesting of Te Oneroa-a-Tōhe (GLM9) mussel spat off Te Oneroa-a-Tōhe (90 Mile Beach).

¹¹ For the purposes of condition 6, a “seagrass meadow” is a contiguous area of seagrass of 10 square metres or more.

¹² The “closest practicable point” will require an assessment of each vehicle access point and the nearest area of reasonable access to the foreshore or coastal water. It is not anticipated to involve using vehicles to travel hundreds of metres to the “best” or preferred area.

- j) clearance of pipe outlets, artificial water courses and tidal stream mouths, or
- k) removal or recovery of wrecked vessels, or
- l) dune and coastal restoration, enhancement and maintenance projects undertaken by a registered coast care group or group authorised by the territorial authority, or
- m) access for people with mobility disabilities (while displaying a mobility card) to the closest practicable point along the foreshore from the vehicle access, or
- n) surf lifesaving operations and law enforcement operations, and
- o) the activity complies with C.1.8 Coastal works general conditions, with the exception of C.1.8(5).

Note: District councils may also have bylaws that control (including prohibiting) the use of vehicles on beaches as well as dunes. The taking and using of vehicles within reserves is also regulated (including prohibited) under the Northland Reserves Bylaws 2007. Compliance with C.1.5.1 Conditional use of vehicles on the foreshore or seabed – permitted activity does not remove the need to comply with all relevant bylaw provisions.

For the avoidance of doubt this rule covers the following RMA activities:

- Disturbance of any foreshore or seabed by a vehicle or an activity not the subject of any other rule in this Plan (s12(1)).
- The use of vehicles on the foreshore or seabed (s12(3)).

C.1.5.2 Activities that disturb the foreshore and seabed – permitted activity

The disturbance of the foreshore and seabed by any activity not the subject of any other rule in this Plan, are permitted activities, provided:

- 1) there is no disturbance of, or damage to, saltmarsh, saltmeadow turfs, mangroves, seagrass meadows and there is no damage or destruction of other indigenous vegetation or shellfish beds, and
- 2) the activities do not involve the exclusive occupation of space in the coastal marine area, and
- 3) there is no disturbance of, or damage to, indigenous or migratory bird nesting or roosting sites,
- 4) there is no disturbance of, or damage to, a mapped Site or Area of Significance to Tāngata Whenua (refer I Maps | Ngā mahere matawhenua), and
- 5) there is no disturbance of, or damage to, a mapped Historic Heritage Area (refer I Maps | Ngā mahere matawhenua), and
- 6) the activity complies with C.1.8 Coastal works general conditions.

Note: This rule does not apply to disturbance of the seabed or foreshore arising from the lawful harvesting of any plant or animal.

For the avoidance of doubt this rule covers the following RMA activities:

- Disturbance of any foreshore or seabed by an activity not the subject of any other rule in this Plan (s12(1)).

C.1.8 Coastal works general conditions

General conditions apply to activities, when referred to in the rules of [C.1 Coastal activities](#) .

Structures and disturbance

Note: Work affecting [archaeological sites](#) is subject to an authority process under the Heritage New Zealand Pouhere Taonga Act 2014. If any activity could modify, damage or destroy any [archaeological site\(s\)](#), an authority (consent) from Heritage New Zealand must be obtained for the work to proceed lawfully.

- 1) Prior to undertaking activities on private land, including land owned by a territorial authority, written approval must be obtained from the landowner and provided to the Regional Council's Compliance Manager upon request, unless the works are being undertaken for emergency remedial works and entry upon the land is:
 - p) necessary in circumstances of probable danger to life or [property](#), or
 - q) immediately necessary to maintain the continuity or safety of the supply and distribution of electricity.
- 2) [Structures](#) must at all times:
 - a) be maintained in good order and repair, and
 - b) except for culverts, not impede fish passage between freshwater and coastal water. For culverts, there must be no perched entry or exit which prevents the passage of fish to upstream waterbodies or downstream to coastal water, except that temporary restrictions of fish passage may occur to enable construction work to be carried out, and
 - c) not cause a hazard to navigation.
- 3) Maintenance, alteration or addition to a [structure](#) must not result in a weakening of the structural integrity or strength of the [structure](#).
- 4) Restrictions on public access along and through the coastal marine area beyond the footprint of the [structure](#), during construction or disturbance for reasons of public health and safety, must not last more than seven days unless an alternative access route or controlled access is provided.
- 5) Disturbance, construction, alteration, addition, maintenance or removal activities must only be carried out during the hours between sunrise and sunset or 6.00am and 7.00pm, whichever occurs earlier, and on days other than public holidays. The exceptions to this are:
 - a) the requirement to undertake emergency remedial work such as, but not limited to, if a [structure](#) is damaged by a natural hazard event, and
 - b) maintenance of [Regionally Significant Infrastructure](#), where the maintenance is required to be undertaken outside these times to minimise disruption to the services provided by the [Regionally Significant Infrastructure](#), and
 - c) the removal of nuisance marine plant debris under [C.1.5.4 Removal of nuisance marine plant debris – permitted activity](#).
- 6) Upon the completion of a new [structure](#) (which does not include a [structure](#) which replaces an existing [structure](#) and meets the requirements of conditions (1) to (5) of [C.1.1.7 Reconstruction, replacement, maintenance or repair of a structure – permitted activity](#)), the [structure](#) owner must [notify](#) in writing (including a scale plan of the completed works) the Regional Council's Compliance Manager.
- 7) All machinery, equipment and materials used for the activity must be removed from the foreshore and seabed at the completion of the activity. Additionally:
 - a) vehicles and equipment must be in a good state of repair and free of any fuel or oil leaks; and
 - b) refuelling must not be carried out in the coastal marine area, except:

- a) where there is a **functional or operational need** to refuel equipment or machinery onboard a **vessel**, in which case refuelling must be undertaken using leak-proof containers and contained spill capture areas (which prevent any fuel entering the coastal marine area), or
 - b) where there is a **functional or operational need** to refuel equipment or machinery on a **structure** in the coastal marine area, in which case refuelling must be undertaken using leak-proof containers and bunds to prevent any fuel entering the coastal marine area; and
 - c) for the duration of the activity, no vehicle or equipment is to be left in a position where it could come into contact with coastal water, except where contact with coastal water is necessary to undertake the activity.
- 8) There must be no damage to shellfish beds in mapped Significant Ecological Areas (refer [I Maps | Ngā mahere matawhenua](#)) and no damage to saltmarsh or seagrass meadows, except as necessary for the installation of an **aid to navigation** under [C.1.1.4 Aids to navigation – permitted activity](#).
- 9) There must be no damage to rhodolith bed, bryozoan beds, sponge gardens or vermetid reefs, except as necessary for the installation of an **aid to navigation** under [C.1.1.4 Aids to navigation – permitted activity](#).
- 10) Any visible disturbance of the foreshore or seabed must be remedied or restored within 48 hours of completion of works in a mapped (refer [I Maps | Ngā mahere matawhenua](#)):
- a) Area of Outstanding Natural Character, or
 - b) Outstanding Natural Feature, or
 - c) Site or Area of Significance to Tāngata Whenua, or
 - d) Significant Ecological Area, or
 - e) Outstanding Natural Landscape, or
 - f) Significant Bird Area – Critical Bird Habitats.
- 11) There must be no disturbance of indigenous bird nesting sites (during the period 1 August and 31 March inclusive), and no disturbance of flocks of roosting coastal sea and shore birds within two hours of high tide¹⁴, unless the activity is undertaken in accordance with [C.1.4.1 Mangrove seedling removal – permitted activity](#), [C.1.4.2 Minor mangrove removal for specified authorised activities – permitted activity](#), [C.1.5.1 Conditional use of vehicles on the foreshore or seabed – permitted activity](#), [C.1.5.4 Removal of nuisance marine plant debris – permitted activity](#), [C.1.5.6 Clearing of pipe outlets – permitted activity](#) or [C.1.5.8 Clearing tidal stream mouths – permitted activity](#), in which case this condition does not apply.
- 12) Outside Outstanding Natural Character, Outstanding Natural Feature, Significant Ecological Areas or Significant Bird Area – Critical Bird Habitats, any visible disturbance of the foreshore or seabed must be remedied or restored within seven days of completion of works, provided that should adverse circumstances arise that make it unsafe to conduct remediation and **restoration** work in the coastal marine area, then such remediation or **restoration** work shall be carried out within ten working days.
- 13) The **structure** or activity must not:
- a) cause permanent scouring or erosion of banks, or
 - b) cause or exacerbate flooding of **other property**, or
 - c) materially reduce the ability of a river to convey flood flows into the coastal marine area (including as a result of debris accumulating against **structures**).
- 14) Any discharge must not:
- a) occur for more than five consecutive days, and for more than 12 hours per day, or
 - b) cause any of the following effects in the receiving waters beyond the **zone of reasonable mixing**:

¹⁴ For the purposes of condition (11), a “flock” is ten birds of the same species that are roosting together.

- i. the production of conspicuous oil or grease films, scums or foams, of floatable or suspended materials, or
- ii. any conspicuous change in the colour or visual clarity, or
- iii. an emission of objectionable odour.

Mangrove removal and pruning

- 15) Removed mangrove vegetation must be removed from any position where it is likely to re-enter the coastal marine area.
- 16) Mangrove removal must minimise the creation of protruding stumps, by cutting mangrove trunks close to the ground.
- 17) The activity must not disturb or damage areas of seagrass, saltmarsh, or other **natural wetland**.
- 18) Chemical herbicides must not be used.
- 19) Access to removal and pruning areas must, where practicable, use existing open areas or paths where these exist and avoid disturbance of shellfish beds, soft sand and mud.
- 20) The Regional Council’s Compliance Manager must be **notified** (in writing or by email) of the proposed time, location and extent of removal at least 10 working days prior to the work being undertaken, when:
 - a) more than 200 square metres of pruning or removal is proposed in any one year, or
 - b) the activity is located in a mapped Significant Bird Area, Significant Ecological Area, Area of Outstanding Natural Character, Outstanding Natural Landscape or Sites or Areas of Significance to Tāngata Whenua (refer [I Maps | Ngā mahere matawhenua](#)).

Lighting

- 21) All lighting (excluding navigation lighting) associated with activities in the coastal marine area must not, by reason of its direction, colour or intensity, create:
 - a) a hazard to navigation and safety, or a hazard to traffic safety, wharves, ramps and adjacent roads, or
 - b) a nuisance to other users of the surrounding coastal marine area or adjacent land.

Noise

- 22) Noise from any activity within the coastal marine area (except for construction noise and noise from helicopters) must comply with *Table 4: Noise limits* at the notional boundary of any **noise sensitive activity**:

Table 4: Noise limits

Time (Monday to Sunday)	L _{Aeq} (15 min)	L _{AFmax}
0700 to 2200 hours	55 db	Not applicable
2200 to 0700 hours	45 db	75db

- a) noise must be measured in accordance with *New Zealand Standard. Acoustics – Measurement of Environmental Sound (NZS 6801:2008)* and assessed in accordance with *New Zealand Standard. Acoustics – Environmental Noise (NZS 6802:2008)*, and
- b) construction activities shall be managed in accordance with, and meet the noise limits set out in *Tables 5 and 6* below, and

Table 5: Upper limits for construction noise received in residential zones and dwellings in rural areas – from New Zealand Standard Acoustics – Construction Noise (NZS 6803:1999)

Time of week	Time period	Duration of work					
		Typical duration (dBA)		Short-term duration (dBA)		Long-term duration (dBA)	
		<i>Leq</i>	<i>Lmax</i>	<i>Leq</i>	<i>Lmax</i>	<i>Leq</i>	<i>Lmax</i>
Weekdays	0630 to 0730	60	75	65	75	55	75
	0730 to 1800	75	90	80	95	70	85
	1800 to 2000	70	85	75	90	65	80
	2000 to 0630	45	75	45	75	45	75
Saturdays	0630 to 0730	45	75	45	75	45	75
	0730 to 1800	75	90	80	95	70	85
	1800 to 2000	45	75	45	75	45	75
	2000 to 0630	45	75	45	75	45	75
Sundays and public holidays	0630 to 0730	45	75	45	75	45	75
	0730 to 0800	55	85	55	85	55	85
	1800 to 2000	45	75	45	75	45	75
	2000 to 0630	45	75	45	75	45	75

Table 6: Upper limits for construction noise received in industrial or commercial areas for all of the year – from New Zealand Standard. Acoustics – Construction Noise (NZS 6803:1999)

Time period	Duration of work		
	Typical duration <i>Leq</i> (dBA)	Short-term duration <i>Leq</i> (dBA)	Long-term duration <i>Leq</i> (dBA)
0730 to 1800	75	80	70
1800 to 0730	80	85	75

- c) helicopter landing areas shall be managed in accordance with, and comply with, the recommended noise limits specified in *New Zealand Standard. Noise Management and Land Use Planning for Helicopter Landing Areas (NZS 6807:1994)*.

23) The *Table 4: Noise limits* and condition (22)(c) noise limits do not apply to the following:

- a) noise generated by navigational aids, safety signals, warning devices, and emergency pressure relief valves, and
- b) noise generated by emergency work arising from the need to protect life or limb or prevent loss or serious damage to **property**, or minimise or prevent environmental damage, and
- c) commercial firework displays.

24) The *Table 4: Noise limits* and condition (22)(c) noise limits do not apply to **temporary military training**. Noise generated by **temporary military training** must meet the following:

- a) for weapons firing and/or the use of explosives:
 - i. **notice** must be provided to the Regional Council at least five working days prior to the commencement of the activity, and

- ii. the activity must comply with the following minimum separation distances to the notional boundary of any **noise sensitive activity**: 500 metres from 7:00am to 7:00pm, and 1,250 metres from 7:00pm to 7:00am, and
 - iii. where the minimum separation distances specified above cannot be met, then the activity shall comply with the following peak sound pressure level when measured at the notional boundary of any **noise sensitive activity**: 95dBC from 7:00am to 7:00pm, and 85dBC from 7:00pm to 7:00am, and
- b) mobile noise sources must comply with the noise limits set out in *Tables 2 and 3 of New Zealand Standard Acoustics – Construction Noise (NZS 6803:1999)*, with reference to ‘construction noise’ taken to refer to mobile noise sources¹⁵, and
- c) fixed (stationary) noise sources must comply with the noise limits set out in *Table 7: Noise limits – temporary military training* when measured at the notional boundary of any **noise sensitive activity**.

Note: Fixed (stationary) noise sources (other than firing of weapons and explosives) include power generation, heating, ventilation or air conditioning systems, or water or **wastewater** pumping/treatment systems.

Table 7: Noise limits – temporary military training

Time (Monday to Sunday)	L _{Aeq} (15 min)	L _{AFmax}
0700 to 1900 hours	55 db	Not applicable
1900 to 2200 hours	50 db	Not applicable
2200 to 0700 hours the next day	45 db	75 db

¹⁵ Note: mobile noise sources (other than firing of weapons and explosives) include personnel, light and heavy vehicles, self-propelled equipment, and earthmoving equipment.

**Reprint
as at 17 December 2015**



Northland Reserves Bylaws 2007

(SR 2007/408)

Pursuant to section 106(3) of the Reserves Act 1977, the Minister of Conservation makes the following bylaws.

Contents

	Page
1 Title	1
2 Commencement	1
3 Bylaws	1
Schedule 1	2
Northland Reserves Bylaws	
Schedule 2	10
Reserves	

Bylaws

1 Title

These bylaws are the Northland Reserves Bylaws 2007.

2 Commencement

These bylaws come into force on the 28th day after the date of their notification in the *Gazette*.

3 Bylaws

The bylaws in Schedule 1 apply to the reserves described in Schedule 2.

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These bylaws are administered by the Department of Conservation.

Schedule 1

Northland Reserves Bylaws

cl 3

1 Interpretation

In these bylaws, unless the context requires otherwise,—

authorised person means—

- (a) a person authorised by a Commissioner for the purposes of these bylaws;
or
- (b) a ranger

Commissioner means each of the officers whom the Director-General of Conservation designates as a Commissioner for the Northland Conservancy of the Department of Conservation

ranger has the meaning given to it by the Reserves Act 1977

reserve—

- (a) means a reserve described in Schedule 2; and
- (b) includes part of the reserve; and
- (c) includes land that becomes part of the reserve under the Reserves Act 1977

sign means a sign displaying the Department of Conservation logo

vehicle—

- (a) has the meaning given to it by section 2 of the Reserves Act 1977; and
- (b) includes bicycles.

2 Reserve open to public

- (1) A reserve must be open to the public.
- (2) Subclause (1) does not apply if the reserve is closed to the public under—
 - (a) the Reserves Act 1977; or
 - (b) a determination made by a Commissioner.
- (3) While a reserve is closed to the public, a person must not—
 - (a) enter it; or
 - (b) remain in it.

3 Gates

A person in a reserve must leave a gate in the reserve in the same position as the person finds it—for example, a gate found open must be left open and a gate found closed must be left closed.

4 **Disorderly behaviour**

- (1) A person in a reserve must not—
 - (a) behave in a disorderly, insulting, offensive, riotous, or threatening manner that is likely in the circumstances to cause violence against persons or property to start or continue; or
 - (b) encourage or incite any other person to behave in a manner described in paragraph (a); or
 - (c) disturb, interfere with, or obstruct any other person's use or enjoyment of the reserve in any way, including by—
 - (i) being noisy; or
 - (ii) being intoxicated; or
 - (iii) using abusive, foul, indecent, or obscene language.
- (2) A ranger who reasonably believes that a person has breached or is breaching subclause (1) may—
 - (a) ask the person to leave:
 - (b) confiscate any alcohol in the person's possession.
- (3) A person asked to leave under subclause (2) must do so.
- (4) Alcohol confiscated under subclause (2) may be returned to the person when he or she leaves the reserve.

5 **Dangerous weapons**

- (1) A person in a reserve must not carry or use a dangerous weapon.
- (2) Subclause (1) does not apply if the person has a Commissioner's prior written or electronic permission.
- (3) In this bylaw, **dangerous weapon** includes a bow and arrow, catapult, and shanghai.

6 **Throwing things**

- (1) A person in a reserve must not throw anything.
- (2) Subclause (1) does not apply to—
 - (a) throwing a thing for the purposes of a game or sport; or
 - (b) throwing litter into—
 - (i) a place that a Commissioner has approved for litter; or
 - (ii) a bin that a Commissioner has provided for litter.

7 **Water**

- A person in a reserve must not—
- (a) cause or allow water to be wasted; or

- (b) cause or allow tap water to flow for longer than is reasonably required for the purpose for which the tap was turned on; or
- (c) cause or allow the use of water for an unlawful purpose; or
- (d) pollute a water supply in the reserve; or
- (e) render a water supply in the reserve unfit for its purposes.

8 Aircraft

- (1) A person must not do or attempt to do any of the following:
 - (a) parachute into a reserve:
 - (b) land an aircraft in a reserve:
 - (c) take off in an aircraft from a reserve:
 - (d) use an aircraft to set down in, pick up from, or recover from, a reserve—
 - (i) a person:
 - (ii) an animal, alive or dead:
 - (iii) an article of any kind:
 - (e) operate an aircraft in a reserve in any other way.
- (2) Subclause (1) does not apply if—
 - (a) the person has a Commissioner’s prior written or electronic permission; or
 - (b) there is an emergency.
- (3) In this bylaw, **aircraft** includes a balloon, glider, hang-glider, and helicopter.

9 Fires

- (1) A person in a reserve must not light a fire.
- (2) Subclause (1) does not apply if—
 - (a) the person has a permit to light a fire issued under section 23 or 24 of the Forest and Rural Fires Act 1977; or
 - (b) the person is allowed to light a fire under any other provision of the Act or regulations made under the Act; or
 - (c) the person complies with fire control measures, as defined in the Act.
- (3) In this bylaw, **fire**—
 - (a) includes fireworks and similar devices; and
 - (b) does not include a fire lit using a substance—for example, gas, oil, or vapourised petrol—in a barbeque or portable stove.

10 Litter

A person in a reserve must—

- (a) take his or her litter out of the reserve; or

- (b) put his or her litter into—
 - (i) a place that a Commissioner has approved for litter; or
 - (ii) a bin that a Commissioner has provided for litter.

11 Animals, except dogs

- (1) A person must not—
 - (a) bring an animal into a reserve; or
 - (b) allow an animal in his or her custody to be in a reserve.
- (2) Subclause (1) does not apply if the person has—
 - (a) a Commissioner's prior written or electronic permission; or
 - (b) an authorised person's permission.
- (3) An authorised person may seize and detain an animal found in a reserve.
- (4) Subclause (5) applies if the authorised person who seizes an animal under subclause (3) does not know and cannot reasonably find out who owns the animal.
- (5) The animal must be committed to—
 - (a) the appropriate authority; or
 - (b) the local pound; or
 - (c) the Royal New Zealand Society for the Prevention of Cruelty to Animals; or
 - (d) any other facility that is safe, secure, and suitable for the animal.
- (6) In this bylaw, **animal** does not include a dog.

12 Dogs

- (1) A person must not bring a dog into a reserve.
- (2) Subclause (1) does not apply if—
 - (a) the dog is certified by the Top Dog Companion Trust as—
 - (i) a companion dog; or
 - (ii) a dog under training to be a companion dog; or
 - (b) the dog is certified by the Royal New Zealand Foundation of the Blind as—
 - (i) a guide dog; or
 - (ii) a dog under training to be a guide dog
 - (c) the dog is certified by the Hearing Dogs for Deaf People New Zealand Trust as—
 - (i) a hearing ear dog; or
 - (ii) a dog under training to be a hearing ear dog; or

- (d) the reserve is an open dog area under section 26ZS of the Conservation Act 1987; or
 - (e) taking the dog into the reserve is allowed under section 26ZZH or 26ZZK of the Conservation Act 1987.
- (3) An authorised person may seize and detain a dog found in a reserve.
- (4) Subclause (5) applies if—
- (a) an authorised person seizes a dog under subclause (3); or
 - (b) a warranted officer seizes a dog under section 26ZZL of the Conservation Act 1987.
- (5) An authorised person may—
- (a) have the dog returned to its owner; or
 - (b) hold the dog in a kennel under a Commissioner's or the Director-General's custody; or
 - (c) place the dog in a territorial authority's custody to be impounded under section 69 of the Dog Control Act 1996.

13 Vehicles: taking them in and using them

- (1) A person must not take a vehicle into or use a vehicle in a reserve.
- (2) Subclause (1) does not apply if—
- (a) the person has a Commissioner's prior written or electronic permission; or
 - (b) the person has an express authorisation in a concession granted under Part 3B of the Conservation Act 1987.
- (3) Subclause (1) also does not apply if a sign authorises vehicles being taken into or used in the reserve. The sign may authorise vehicles being taken in or used by describing, with words or pictures, one of the following situations:
- (a) the first situation is that vehicles may be taken in or used without limitation as to the kinds of vehicles that are allowed or prohibited:
 - (b) the second situation is that 1 or more specific kinds of vehicles may be taken in or used; the effect of a sign like this is that a person may take in or use a vehicle of any of the specific kinds but must not take in or use a vehicle of any other kind:
 - (c) the third situation is that 1 or more specific kinds of vehicles may not be taken in or used; the effect of a sign like this is that a person must not take in or use a vehicle of any of the specific kinds but may take in or use a vehicle of any other kind.
- (4) Subclause (1) also does not apply if a person takes a vehicle into a reserve, or uses a vehicle in a reserve, on an area that is permanently surfaced—for example, by gravel, metal, or seal—and suitable for vehicular access. Subclause (1) also does not apply if a person uses a vehicle in a camping ground accessi-

ble on that kind of area. However, subclause (1) does apply if the area or camping ground has a sign prohibiting vehicles being taken in or used. A sign may prohibit vehicles being taken in or used by describing, with words or pictures, one of the following situations:

- (a) the first situation is that vehicles may not be taken in or used at all;
 - (b) the second situation is that 1 or more specific kinds of vehicles may not be taken in or used; the effect of a sign like this is that a person must not take in or use a vehicle of any of the specific kinds but may take in or use a vehicle of any other kind.
- (5) In this bylaw, **take** means to drive a vehicle, ride a vehicle, or take a vehicle by any other means.

14 Vehicles: misusing them

A person must not use a vehicle in a reserve in a manner that causes or is likely to cause danger, damage, disturbance, or nuisance to—

- (a) any other person;
- (b) indigenous flora;
- (c) indigenous fauna;
- (d) natural features or landforms;
- (e) historic features or landforms;
- (f) a garden or lawn.

15 Vehicles: parking them

- (1) A person must not stop or leave a vehicle in a reserve in such a way as to cause the vehicle to obstruct an entrance to the reserve or a path or track in the reserve.
- (2) A person must not park a vehicle in a reserve.
- (3) Subclause (2) does not apply if—
- (a) the person parks the vehicle in a place provided for the parking of vehicles; or
 - (b) the person has an express authorisation in a concession granted under Part 3B of the Conservation Act 1987.
- (4) In this bylaw, **park** means to stand a vehicle for more than 5 minutes.

16 Vehicles: consequence of breach

- (1) A ranger who reasonably believes that a person has breached or is breaching any of bylaws 13 to 15 may ask the person to leave the reserve.
- (2) A person asked to leave under subclause (1) must do so.

17 Walking

- (1) A person must not walk on planted beds or shrubbery in a reserve.
- (2) A person must not walk on a grass plot or other place in the reserve if doing so is prohibited by a sign on the grass plot or place.

18 Gatherings

- (1) A person must not attend a gathering in a reserve that disturbs, interferes with, or obstructs any other person's use or enjoyment of the reserve.
- (2) Subclause (1) does not apply if the gathering is held with a Commissioner's prior written or electronic permission.

19 Notices

- (1) A person must not—
 - (a) put up a notice in a reserve; or
 - (b) interfere with a sign in a reserve.
- (2) Subclause (1) does not apply if the person has a Commissioner's prior written or electronic permission.
- (3) A person who is distributing a notice in a reserve must stop doing so if a ranger directs him or her to stop.

20 Damage to property

- (1) A person must not do any of the following to a thing in the reserve that does not belong to the person:
 - (a) remove it:
 - (b) disturb it:
 - (c) damage it:
 - (d) break it:
 - (e) destroy it:
 - (f) carve, paint, or write anything on it.
- (2) Subclause (1) does not apply if the person has a Commissioner's prior written or electronic permission.

21 Noise

- (1) This bylaw applies to—
 - (a) a sound or noise that disturbs or annoys a person in the reserve; or
 - (b) a sound or noise that an authorised person reasonably believes is likely to disturb or annoy a person in the reserve.
- (2) A person in a reserve must not make a sound or noise described in subclause (1) if an authorised person expressly forbids him or her to do so.

- (3) An authorised person who reasonably believes that a person has breached or is breaching subclause (2) may ask the person to—
 - (a) stop making the sound or noise; or
 - (b) leave the reserve.
- (4) The person must comply with the request.
- (5) In this bylaw, **sound or noise** includes sound or noise made by—
 - (a) a musical instrument; or
 - (b) an instrument of any other kind; or
 - (c) a public address system; or
 - (d) an amplified sound system.

22 Camping

- (1) A person must not camp in a reserve.
- (2) Subclause (1) does not apply to a place in the reserve that a Commissioner has set aside for camping.
- (3) A person camping in the reserve must observe a direction—
 - (a) given to him or her by an officer or employee of the Department of Conservation or an authorised person; or
 - (b) contained in a notice issued by an officer or employee of the Department of Conservation or an authorised person; or
 - (c) contained in a publicly displayed sign in the reserve.
- (4) A person camping in a reserve must leave the area on which that person camped clean and tidy.

23 Bylaws not to limit or affect other enactments

These bylaws do not limit or affect requirements in or under any other enactment.

24 Offences

A person who commits a breach of any of these bylaws commits an offence and is liable to the penalty prescribed in section 104 of the Reserves Act 1977.

Schedule 2 Reserves

cl 3

Bream Head Scenic Reserve

All that land in the North Auckland Land District containing 536.2237 hectares, more or less, being Lots 1 and 2 of Allotment 16, Parish of Manaia; Allotments 71, 72, 72A, 73, 74, 74A, 75, W76, E76, 77, 77A, 79A, Parish of Manaia; Lot 1 DP 113828; Lot 1 DP 100562; Lot 1 DP 182032; Lot 1 DP 159032; Lot 3 DP 205629; Lots 1, 3, and 4 DP 209772; all situated in Block VIII Ruakaka Survey District and Block II Taranga Survey District. (All *Gazette* 1981, p 3234; *Gazette* 1985, p 678; *Gazette* 1997, p 3668; *Gazette* 2002, p 554; and *Gazette* 2007, p 2406)

Bream Islands Scenic Reserve

All that land in the North Auckland Land District containing 2.1853 hectares, more or less, being Tarakanahi and Moturaka Islands, situated in Block II Taranga Survey District. (All *Gazette* 1980, p 429)

Bream Tail Scenic Reserve

All that land in the North Auckland Land District containing 70.3241 hectares, more or less, being Allotment 534 and part Allotment 452 Parish of Waipu; all situated in Blocks I and II Mangawhai Survey District. (All *Gazette* 1978, p 2722)

Maitai Bay Recreation Reserve

All that land in the North Auckland Land District containing 488.7884 hectares, more or less, being Sections 1 and 2, Block 1 Karikari Survey District; Section 1, Block V Karikari Survey District; Karikari 2A and 2K Blocks; Merita A, B1, and No 2 Blocks; all situated in Blocks I, II, V, and VI Karikari Survey District. (All *Gazette* 1980, p 3271; *Gazette* 1983, p 3558; *Gazette* 1985, p 2089; *Gazette* 1995, p 3005; and *Gazette* 2007, p 2405)

Manaia Ridge Scenic Reserve

All that land in the North Auckland Land District containing 303.1543 hectares, more or less, being Allotments 53, 54, 55, 57, 58, 59, W60, N62, S62, 62A, S63, 150, 151, and 164 Parish of Manaia; Lot 1 DP 63797; Lots 1 and 2 DP 151222; Lot 1 DP 129617; part Lot 3 DP 14446; all situated in Block IV Ruakaka Survey District. (Part *Gazette* 1979, p 129, and all *Gazette* 1997, p 1785 and *Gazette* 2007, p 2406)

Mangawhai Government Purpose (Wildlife Refuge) Reserve

All that land in the North Auckland Land District containing 245.2574 hectares, more or less, being Lot 1 DP 71829; situated in Blocks II, IV, and V Mangawhai Survey District. (All *Gazette* 1982, p 1695; *Gazette* 2003, p 970; and *Gazette* 2007, p 2406)

Mimiwhangata Scenic Reserve

All that land in the North Auckland Land District containing 835.5379 hectares, more or less, comprising—

18.5000 hectares	Rimariki Island	All CT 750/161
328.2001 hectares	Lot 1 DP 42213	Pt CTs 73/105 and 81/143
0.3035 hectares	Lot 3 DP 42213	Pt CT 73/105
185.1892 hectares	Lot 1 DP 66586	Pt CT 24D/550
2.9542 hectares	Lot 2 DP 66586	Pt CT 24D/551
9.7605 hectares	Lot 3 DP 66586	Pt CT 24D/552
22.2096 hectares	Pt Lot 2 DP 42213	Pt CTs 73/105, 64/281, 81/143
115.4289 hectares	Te Ruatahi 2A Blk	All CT 602/55
63.8200 hectares	Pt Sec 3 Blk II Opuawhanga SD	Pt CT 81/143
1.1128 hectares	Sec 18 Blk II Opuawhanga SD	Pt CT 683/122
0.3085 hectares	Sec 19 Blk II Opuawhanga SD	Pt CT 683/122
27.4680 hectares	Pt Sec 1 Blk II Opuawhanga SD	All CT 1131/232
30.8826 hectares	Sec 2 Blk II Opuawhanga SD	All CT 71/188
29.4000 hectares	Pt Sec 2A Blk II Opuawhanga SD	Pt CT 64/281

(All *Gazette* 2006, p 2657)

Motu Kauri Scenic Reserve

All that land in the North Auckland Land District containing 6.0702 hectares, more or less, being Motukauri Block situated in Block II Whangaruru Survey District. (All *Gazette* 1994, p 2982, and *Gazette* 2007, p 2406)

Motukiore Island Recreation Reserve

All that land in the North Auckland Land District containing 4.9371 hectares, more or less, being Allotment 82, Parish of Owhiwa, situated in Block XV Whangarei Survey District and Block III Ruakaka Survey District. (All *Gazette* 1979, p 2813)

Motutara Recreation Reserve

All that land in the North Auckland Land District containing 16.8191 hectares, more or less, being part Section 11 Block VI Opuawhanga Survey District and Lot 1 DP 88172. (All *Gazette* 1985, p 5489)

Oakura Beach Domain Recreation Reserve

All that land in the North Auckland Land District containing 1.3144 hectares, more or less, being Lot 65 DP 36772; Lots 6 and 17 DP 24542; Lot 39 DP 39681; Oakura D2 Section 68 Block, all situated in Block III Whangaruru Survey District. (All *Gazette* 1959, p 1043, and *Gazette* 1979, p 1906)

Ocean Beach Recreation Reserve

All that land in the North Auckland Land District containing 275.6000 hectares, more or less, being Allotment 165, Parish of Manaia, situated in Block I Taranga Survey District and Block II Taiharuru Survey District. SO Plan 59329. (All *Gazette* 1986, p 4683)

Otamure Recreation Reserve

All that land in the North Auckland Land District containing 3.2741 hectares, more or less, being Lot 1 DP 77363 and Lot 1 DP 97998, situated in Block VI Opuawhanga Survey District. (All *Gazette* 2007, p 2405)

Poupouwhenua Scenic Reserve

All that land in the North Auckland Land District containing 84.9190 hectares, more or less, comprising—

- (a) 20.6550 hectares, being Section 1 SO 461691. Subject to easements marked “A”, “B”, “C”, and “S” on SO 461691, created by Deed of Grant 100C/225. (Part *Gazette* 2009, p 2122 and all *Gazette* 2015, ln2859):
- (b) 64.2640 hectares, being Section 2 SO 461691. Subject to easements marked “D”, “E”, “F”, “G”, “H”, “I”, “J”, “M”, “T”, and “U” on SO 461691, created by Deed of Grant 100C/225. (Part *Gazette* 2009, p 2122)

Purua Scenic Reserve

All that land in the North Auckland Land District containing 75.3750 hectares, more or less, being Section 108 Block I Purua Survey District. (All *Gazette* 1986, p 4033, and *Gazette* 2007, p 2405)

Rangikapiti Pa Historic Reserve

All that land in the North Auckland Land District containing 34.3982 hectares, more or less, being Allotment 131 Parish of Mangonui; situated in Block V Mangonui Survey District. (All *Gazette* 1980, p 2413)

Riponui Scenic Reserve

All that land in the North Auckland Land District containing 44.4180 hectares, more or less, being Section 34 Block XIII Hukerenui Survey District. (All *Gazette* 1979, p 3025)

Ruakākā Scenic Reserve

All that land in the North Auckland Land District containing 175.3200 hectares, more or less, comprising (all being parts *Gazette* 2009, p 2122)—

- (a) 72.1000 hectares, being Section 3 SO 461691. Subject to sea water and right of way easements marked “K”, “L”, and “R” on SO 461691, created by C253081.1:
- (b) 5.2300 hectares, being Section 4 SO 461691:
- (c) 93.1900 hectares, being Section 5 SO 461691. Subject to oil supply easement marked “N” and “P” on SO 461691, created by B899370.3, and right of way easement marked “P” and “Q” on SO 461691, created by Deed of Grant 1633/76:
- (d) 4.8000 hectares, being part Allotment 87, Parish of Ruakaka, shown as area 3 on SO 61584.

Taumarumarū Recreation Reserve

All that land in the North Auckland Land District containing 22.2750 hectares, more or less, being part Lot 1 DP 42938 and part Lot 1 DP 61819; situated in Block V Mangonui Survey District. (All *Gazette* 2007, p 2405)

Uretiti Recreation Reserve

All that land in the North Auckland Land District containing 72.7240 hectares, more or less, being Section 50 Block XIV Ruakaka Survey District and part Allotment 92 Parish of Ruakaka. Situated in Block XIV Ruakaka Survey District. (All *Gazette* 2001, p 3228)

Uretiti Scenic Reserve

All that land in the North Auckland Land District containing 242.8930 hectares, more or less, being Section 6 SO 461691. Subject to oil supply easement marked “O” on SO 461691, created by B899370.2. (Part *Gazette* 2009, p 2122)

Waipu Government Purpose (Wildlife Refuge) Reserve

137.9670 hectares, more or less, being Allotments 397A and 398A, and part Allotment 503, Parish of Waipu. Marked “A” on SO69550. Situated in Blocks III and VII Waipu Survey District. (All *Gazette* 1999, p 1843; *Gazette* 1999, p 1899; and *Gazette* 2007, p 2406)

Schedule 2: amended, on 17 December 2015, by clause 4 of the Northland Reserves Amendment By-laws 2015 (LI 2015/284).

Dated at Wellington this 17th day of December 2007.

Steve Chadwick,
Minister of Conservation.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 20 December 2007.

Reprints notes

1 *General*

This is a reprint of the Northland Reserves Bylaws 2007 that incorporates all the amendments to those bylaws as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Northland Reserves Amendment Bylaws 2015 (LI 2015/284)

DOUBLE SIDED

ORIGINAL

Decision No. A 032 /2003

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of a reference pursuant to clause 14 of the First Schedule to the Act

BETWEEN

THE MINISTER OF CONSERVATION

(part RMA 1273/98)

Referrer

AND

NORTHLAND REGIONAL COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

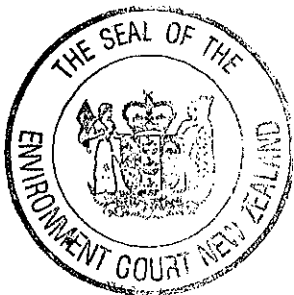
Environment Judge L J Newhook sitting alone pursuant to section 279 of the Act.

REPORT TO THE MINISTER OF CONSERVATION, THE NORTHLAND REGIONAL COUNCIL, YACHTING NEW ZEALAND INC. AND NORTHLAND YACHTING ASSOCIATION INC, MATAUWHI WHARF LTD AND THE REFERRER AND DIRECTIONS UNDER CLAUSE 15 OF THE FIRST SCHEDULE TO THE ACT

- [1] This reference concerns parts of the proposed Regional Coastal Plan for Northland ("proposed plan"). The referrer made a submission on the proposed plan.
- [2] On 7 September 1998 the referrer received the respondent's decision on submissions made in respect of the proposed plan. On 28 September 1998 the Court received the reference from the referrer seeking to have certain provisions in the proposed plan amended. On 16 November 1998 the respondent's reply was lodged with the Court.
- [3] The Court was advised by Yachting New Zealand Inc. and Northland Yachting Association Inc. that they wished to be heard in respect of the proceedings under sections 271A and 274 of the Act.
- [4] The Court was advised by Matauwhi Wharf Limited that they wish to be heard in respect of the proceedings under section 274 of the Act.



- [5] The reference was called at a callover conference which was a public sitting of the Court on 20 May 2002.
- [6] Following the conference a Memorandum of Consent has been lodged with the Court. The Memorandum was dated 20 January 2003 and signed by counsel for each of the referrer, the respondent, Yachting New Zealand Inc. and Northland Yachting Association Inc., and Matauwhi Wharf Limited. The Memorandum set out the manner in which the parties propose part 25 of this reference can be determined by consent, and attached a draft consent order.
- [7] The suggested amendment to the proposed plan is within the scope of part 25 of this reference.
- [8] Because this reference is a reference on a proposed regional coastal plan, the reference is an inquiry, to be dealt with in accordance with clause 15 of the First Schedule to the Act. The Court is required to hold a public hearing and report its findings. The Court may include a direction to the regional council.
- [9] Because the parties have reached agreement and the Court is satisfied with the terms of that agreement, further inquiry has not been necessary.
- [10] Having regard to the foregoing the Court reports and directs as follows:
- (a) By consent, part 25 of reference RMA 1273/98 has not been the subject of further inquiry because the parties have agreed that:
 - (i) Issues 10.2.5 and 10.2.6 should be amended as set out in subparagraph (b)(i) below; and
 - (ii) Objective 10.3.2 should be amended as set out in subparagraph (b)(i) below; and
 - (iii) Policies 10.4.4 and 10.4.5 should be amended as set out in subparagraph (b)(i) below; and
 - (iv) Methods 10.5.14, 10.5.15, 10.5.16, 10.5.17 and 10.5.18 should be amended as set out in subparagraph (b)(i) below; and
 - (v) Policy 15.4.4 should be amended as set out in subparagraph (b)(ii) below; and
 - (vi) Method 15.5.11 should be amended as set out in subparagraph (b)(i) below; and
 - (vii) In all other respects, the relief sought in part 25 of this reference is not pursued and is therefore declined.



- (b) The Court directs the Northland Regional Council to modify the proposed plan in the manner set out below:
- (i) By amending Issues 10.2.5 and 10.2.6 as set out in Annexure A to this Draft Report (additions and deletions of text are shown by underlining and strikeout respectively); and
 - (ii) By amending Objective 10.3.2 as set out in Annexure A to this Draft Report (additions and deletions of text are shown by underlining and strikeout respectively); and
 - (iii) By amending Policies 10.4.4 and 10.4.5 as set out in Annexure A to this Draft Report (additions and deletions of text are shown by underlining and strikeout respectively); and
 - (iv) By amending Methods 10.5.14, 10.5.15, 10.5.16, 10.5.17 and 10.5.18 as set out in Annexure A to this Draft Report (additions and deletions of text are shown by underlining and strikeout respectively); and
 - (v) By amending Policy 15.4.4 as set out in Annexure A to this Draft Report (additions and deletions of text are shown by underlining and strikeout respectively); and
 - (vi) By amending Method 15.5.11 as set out in Annexure A to this Draft Report (additions and deletions of text are shown by underlining and strikeout respectively); and
- (c) The remainder of reference RMA 1273/98 is adjourned sine die for the remaining issues in the reference to be dealt with in the normal course of events.
- (d) There is no order for costs.

DATED at Auckland this *7th* day of *March* 2003.



Annexure A

10. PUBLIC ACCESS

10.1 ISSUES

4. Vehicular access to and along the coastal marine area can cause adverse environmental effects.
5. Adverse environmental effects can arise from vehicular use on beaches across administrative boundaries such as the line of mean high water springs.

10.3 OBJECTIVE

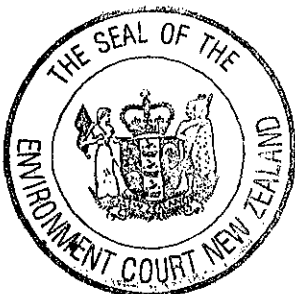
1. The maintenance and enhancement of public access to and along Northland's coastal marine area except where restriction on that access is necessary.
2. The integrated management of vehicular use of beaches, including access to and along the coastal marine area, between administrative agencies, non governmental agencies and communities.

10.4 POLICIES

4. Consent authorities shall recognise that vehicular use to and along the coastal marine area may cause adverse environmental effects including:
 - Coastal erosion
 - Ecosystem degradation
 - Depletion, and in some cases destruction, of shellfish beds
 - Disturbance of wildlife, especially nesting birds
 - Damage to archaeological site and wahi tapu
 - Public health and safety
 - Noise

Explanation

Vehicles such as 4WD and motorcycles can cause considerable damage by crushing juvenile shellfish, disturbing and/or damaging flora and fauna, accelerating erosion and placing other recreational users at risk.



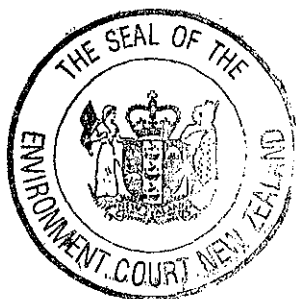
5. The Council shall recognise that vehicle usage and associated environmental effects are not confined to the CMA and an integrated management approach between a number of different organisations and communities is required to address these effects.

Explanation

The arbitrary boundary of the line of MHWS does not take into account the fact that beaches form part of a dynamic and integrated ecosystem. Adverse effects arising from vehicle use anywhere on a beach can affect the whole beach system. A number of different organisations and communities have responsibilities and interests in managing adverse environmental effects arising from vehicle use on beaches.

10.5 METHODS OF IMPLEMENTATION

14. Encourage the appropriate use of vehicles on beaches by providing information and education about the adverse effects that may arise through inappropriate vehicle use by:
- The placement of information signs;
 - Provision of education pamphlets
 - Public environmental education initiatives
15. The Council will advocate for the integrated management of vehicles on beaches between statutory agencies, including territorial authorities within Northland, the Department of Conservation, the Ministry of Transport, LTSA, the New Zealand Police, Government and adjoining local authorities.
16. The Council will advocate for the integrated management of vehicles on beaches by encouraging the establishment and development of Coast Care Groups and support other groups, such as 4WD clubs and fishing clubs, in developing codes of practice for vehicle use.
17. Within two years of the Regional Coastal Plan being made operative, the Council will facilitate an All-Party Conference on the issue of vehicles on beaches, including integrated management.
18. The Council will encourage an integrated approach to the monitoring of vehicle use on beaches between the Minister of Conservation and the local and adjoining territorial authorities.



15. RECREATION

15.4 Policies

4. Within Marine 1, Marine 2 and Marine 4 management areas, to help ensure that the use of recreational vessels and vehicles does not create a public nuisance within the coastal environment, or compromise the health and safety of other users, or result in adverse effects on the environment of the coastal marine area.

Explanation

While recreational activity is generally to be encouraged, the use of recreational vessels and vehicles can, by virtue of their speed, noise, or associated discharges, be a public nuisance, and inappropriate use, pose a risk to public health and safety and to the environment. Restrictions are therefore required provided these do not duplicate those promulgated under other legislation, e.g. the Harbours Act 1950.

15.5 Methods of Implementation

11. Liaise with the Department of Conservation, and district councils and relevant interest groups, to assess the need for specific areas to be set aside for passive recreation (where motorised vehicles and motorised vessels would be prohibited) and to evaluate options for establishing such areas.

cross-reference

10.5.15

10.5.16

