

Proposal

Vehicles on Beaches

1 Context and Situation

The Far North District contains a large number of beaches and a diverse population spread across many different communities. Our beaches are sites for a wide variety of commercial and recreational activities, and also contain important natural and historical features, vegetation and wildlife. The diversity of user groups means that the rights and wishes of different users can come into conflict, and therefore it is appropriate for the council to consider how best to balance the needs and wishes of all beach users.

Research has identified that concerns regarding vehicles on beaches include dangerous vehicle speed, damage caused by vehicles on sand dunes, parked vehicles impeding access for other beach users, protection of wāhi tapu sites, and the preservation of shellfish beds, native vegetation, and shore bird habitat. At the same time, there are a number of legitimate reasons for people to use vehicles on beaches for recreational and commercial purposes, such as gathering kaimoana, launching boats, and general access to and enjoyment of the coastal environment. Appropriate management of vehicles on beaches can minimise risks to public health and safety, can ensure that the needs of different beach users are balanced fairly, and can mitigate or prevent damage to the environment.

To manage risks to public health and safety, the Far North District Council (“the Council”) made a Vehicles on Beaches Bylaw on 12 March 2015. The Vehicles on Beaches Bylaw 2015 was made under section 145 of the Local Government Act 2002 (LGA). Under section 158 of the LGA it was due for review by 12 March 2020, but was not reviewed by that date. It will be automatically revoked on 12 March 2022, under section 160A of the LGA.

Currently, under the Vehicles on Beaches Bylaw, there is one scheduled Safe Zone at Coopers Beach, where vehicles are prohibited.

On 24 February 2022, under section 155(1) of the Local Government Act 2002, the governing body of the Council determined that:

- a bylaw is the most appropriate way of addressing problems related to vehicles on beaches in the Far North District
- the current form of the Vehicles on Beaches Bylaw is not the most appropriate form
- provisions regulating vehicles on beaches should be included in the draft Road Use Bylaw
- the prohibition of vehicles at Coopers Beach should be included in the draft Road Use Bylaw.

2 Proposal

The Council proposes to include provisions regulating vehicles on beaches in the draft new Road Use Bylaw, made under section 22AB of the Land Transport Act 1998, to regulate the use of roads and adjoining land. Beaches are defined as roads under the Land Transport Act. These provisions will be similar to those in the existing Vehicles on Beaches Bylaw 2015.

This will mean that the current situation, where vehicles are prohibited on Coopers Beach, will continue after the Vehicles on Beaches Bylaw has revoked, but under a different bylaw – the Road Use Bylaw. It will also mean that the Council will continue to have a mechanism to restrict or prohibit vehicles on other beaches in the district, in the same way as under the existing Vehicles on Beaches Bylaw.

However, the Council can only consider prohibiting or restricting vehicles on a beach after proper engagement and consultation with affected communities. This proposal only includes Coopers Beach, and the inclusion of other beaches would require a separate proposal and consultation process.

3 Reasons for the proposal

As the Vehicles on Beaches Bylaw was not reviewed in time, under section 160A of the Local Government Act 2002, the bylaw must revoke on 12 March 2022. The Council is not able to stop the bylaw from being revoked.

Therefore, to continue the regulation of vehicles on beaches, and specifically the prohibition of vehicles at Coopers Beach, a new bylaw provision must be made.

4 Analysis of the reasonably practicable options

The governing body of the Council considered three options for addressing problems relating to vehicles on beaches:

- do nothing – allow the Vehicles on Beaches Bylaw to revoke without replacement
- replace the Vehicles on Beaches Bylaw
- include provisions regulating vehicles on beaches in the proposed Road Use Bylaw, Reserves Bylaw, and Speed Limits Bylaw.

The advantages and disadvantages of the options are summarised in the following table.

Option	Advantages	Disadvantages
Option One: Do nothing – allow the Vehicles on Beaches Bylaw to revoke without replacement	No costs required for consultation with communities or implementation.	Negative impact to the Coopers Beach community, as no regulation will remain in place. The problems that were addressed by the previous bylaw will no longer be addressed. Reputational impact to the Council, because the Coopers Beach community are in favour of continuing the vehicle prohibition in the current bylaw.
Option Two: Replace the Vehicles on Beaches Bylaw	Opportunity to address problems related to vehicles on beaches that have not been effectively addressed by the current bylaw. Opportunity to make a new bylaw under the Land Transport Act 1998 rather than the Local Government Act 2002, thereby strengthening enforcement tools.	Far North communities will be without a bylaw regulating vehicles of beaches for at least 12 months while a new bylaw is drafted, consulted on, and adopted. Reputational impact to the Council, because the Coopers Beach community are in favour of continuing the vehicle prohibition in the current bylaw, and will be without a similar provision for at least 12 months. Creates an additional bylaw, which is unnecessary if the problems identified can be addressed more efficiently through other existing or planned bylaws.

Option Three: Include provisions regulating vehicles on beaches in the proposed Road Use Bylaw, Reserves Bylaw, and Speed Limits Bylaw	<p>Retains the effective part of the current Vehicles on Beaches Bylaw, by prohibiting vehicles on Coopers Beach.</p> <p>Minimises the time the Coopers Beach community will be without a bylaw providing a scheduled prohibition on vehicles.</p> <p>Provides a mechanism for the Council to restrict or prohibit vehicles on other beaches through updates to the schedule, subject to appropriate engagement and consultation.</p> <p>Regulates the protection of sand dunes and beaches that are reserves (under a potential Reserves Bylaw).</p> <p>Streamlines the Council's bylaws by avoiding the creation of an additional separate bylaw for vehicles on beaches, since the problems can be addressed more efficiently through three existing and proposed bylaws.</p>	<p>None.</p>
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Option Three is the proposed option.

This proposal for consultation is limited to the insertion of new provisions into the proposed Road Use Bylaw. Other issues related to vehicles on beaches (such as speeding, and problems on dunes and beach areas which are reserves) can be addressed in a potential Reserves Bylaw and the review of the Speed Limits Bylaw, and will require further research and consultation.

4.1 Impacts on tāngata whenua and te ao Māori

There will be impacts on tāngata whenua from the regulation of vehicles on beaches. Where the Council regulates the use of vehicles on beaches, parts of beaches, or adjacent areas, such regulation will need to take into account sites that are significant to Māori. The significance could be for traditional, spiritual, religious, ritual, or mythological reasons.

The proposed new provisions to be included in the Road Use Bylaw will provide the Council with a mechanism to protect significant sites through the provision of scheduled areas where vehicles are prohibited or restricted, subject to proper engagement and consultation with iwi, hapū, and affected communities. This proposal only includes Coopers Beach, and the inclusion of other beaches would require a separate proposal and consultation process.

5 New Zealand Bill of Rights Act 1990 implications

Part 2 of the New Zealand Bill of Rights Act 1990 sets out twenty rights that are affirmed and protected, that may only be subject to reasonable limits that can be demonstrably justified in a free and democratic society. Section 155(2)(b) of the Local Government Act 2002 requires the Council to determine if the proposed bylaw gives rise to

any implications under the New Zealand Bill of Rights Act 1990. The Council will fully assess these implications before it makes the amended Road Use Bylaw.

However, a preliminary assessment has identified the new provisions proposed to be inserted into the Road Use Bylaw, allowing the Council to prohibit or restrict vehicles on scheduled beaches or parts of beaches, may potentially have implications on Section 18: Freedom of Movement, in that the Council may restrict vehicle access to some beaches.

The new provisions are justified because they only limit the rights of individuals to the extent it is reasonable to do so, in order for other people's rights and freedoms to be maintained.

Therefore, any limitations on the right to freedom of movement are likely to be justified in accordance with the New Zealand Bill of Rights Act 1990.

6 How to give your views on the proposal

The Council encourages any person or organisation affected by, or having an interest in, the new provisions to be inserted into the proposed Road Use Bylaw to present their views on the proposal to the Council by making a submission.

This proposal for consultation is limited to the insertion of new provisions relating to vehicles on beaches into the proposed Road Use Bylaw. The remainder of the draft Road Use Bylaw has already been through public consultation. Submissions have been received and recommendations based on the analysis of submissions will be made in due course.

You can make a submission by using any of the following methods:

- online at the Council's website www.fndc.govt.nz/have-your-say
- email your submission to submissions@fndc.govt.nz
- drop-off your submission at any Council service centre or library, details of their locations and opening times are listed at www.fndc.govt.nz/contact or you can get that information by phoning the Council on 0800 920 029
- post your submission to: Strategy Development Team, Far North District Council, Private Bag 752, Kaikohe 0440
- make an oral presentation of your submission at a meeting of the Council's Strategy and Policy Committee

Please include your full name and email address or postal address in your submission if you want:

- the Council to acknowledge receipt of your submission
- to make an oral presentation – you will be contacted about when and where the meetings for this are taking place.

Privacy statement – Please be aware, any submissions that are made on the new on-site wastewater disposal systems bylaw become part of the public consultation process. As such, all submissions, any summaries of submissions, and any documents provided with your submission, are copied and made available to the Council's governing body as well as the public. Any personal information included with a submission such as your name is treated as part of the submission and will also be released publicly. Your submission and any personal information that you supply such as your name will not be treated as confidential unless you specifically request it in your submission.

6.1 Draft Road Use Bylaw – Part 8: Vehicles on Beaches

We are only seeking submissions on Part 8: Vehicles on Beaches, which has been inserted into the draft Road Use Bylaw. The remainder of the draft Road Use Bylaw has already been through public consultation.

The draft of the new provisions to be included in the Road Use Bylaw is as follows:

Interpretation

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.

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.

Part 8: Vehicles on Beaches

30 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 32 of this Bylaw.

31 Restriction on the use of vehicles on beaches

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.

32 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 30 and 31 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.

33 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 incorrect information shall constitute a further offence against this Bylaw

34 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.

Schedules

41 Roads that have vehicle restrictions or prohibitions

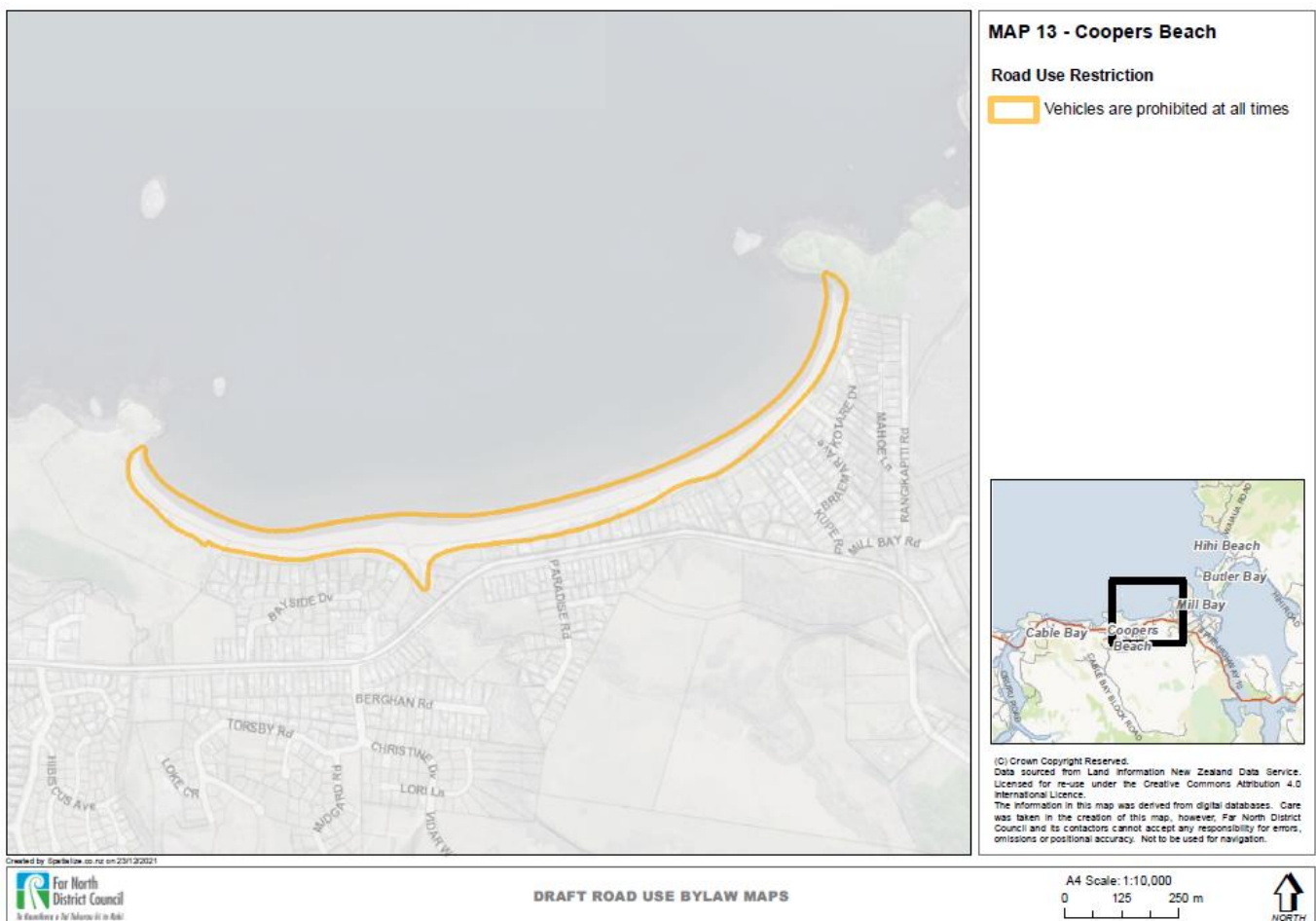
- (4) Schedule 6 lists the beaches or parts of beaches where vehicles are prohibited at all times.
- (5) Schedule 7 lists the beaches or parts of beaches where vehicles are prohibited at specified times and or dates.

43 Amendment of Schedules

- (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 to those beaches.

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.]