

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 Ulrich 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