

# NZCPS 2010 guidance note

## Policy 20: Vehicle access



Dated October 2018

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## ***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.
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**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 vehicles<sup>1</sup> 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.<sup>2</sup>

‘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’,<sup>3</sup> 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.

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

<sup>2</sup> Refer to the ‘Glossary of terms’ for a definition of ‘emergency vehicle’.

<sup>3</sup> <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 1991<sup>4</sup>

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 strip<sup>5</sup> 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.

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

<sup>5</sup> <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 1998<sup>6</sup>*

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 1987<sup>7</sup>*

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

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

<sup>7</sup> <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 1977***<sup>8</sup>

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 1978***<sup>9</sup>

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 1953***<sup>10</sup>

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.

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

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

<sup>10</sup> [www.legislation.govt.nz/act/public/1953/0031/latest/DLM276814.html](http://www.legislation.govt.nz/act/public/1953/0031/latest/DLM276814.html)

### ***Local Government Act 2002***<sup>11</sup>

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 2011***<sup>12</sup>

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.<sup>13</sup> 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.<sup>14</sup>

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<sup>11</sup>[http://www.legislation.govt.nz/act/public/2002/0084/latest/DLM170873.html?search=ts\\_act%40bill%40regulation%40deemedreg\\_local+government\\_resel\\_25\\_a&p=1](http://www.legislation.govt.nz/act/public/2002/0084/latest/DLM170873.html?search=ts_act%40bill%40regulation%40deemedreg_local+government_resel_25_a&p=1)

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

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

<sup>14</sup> <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 Inquiry<sup>15</sup> 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 Inquiry<sup>16</sup> 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).<sup>17</sup>*

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

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

<sup>17</sup> <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',<sup>18</sup> 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)**

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<sup>18</sup> <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](http://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](http://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](http://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](http://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/](http://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](http://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](http://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/](http://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](http://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/](http://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](http://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](http://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/](http://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/](http://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](http://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](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](http://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/](http://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 <sup>19</sup>.)

**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;

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<sup>19</sup> <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.)