

Control of Vehicles on Beaches Bylaw 2009

Made by Whangarei District Council by Resolution in Council 25 November 2009
(amended on 26 September 2019 by Whangarei District Council with effect from 18 October 2019)



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1. Title

1.1 This Bylaw is the Control of Vehicles on Beaches Bylaw 2009.

2. Commencement

2.1 This Bylaw comes into force on 7/12/2009.

Explanatory note: The Bylaw was first made in November 2009. It was reviewed and subsequently amended by Council in October 2016. The amendments to the Bylaw made in the 2016 review came into force on 21 October 2016. A further amendment was made to the Bylaw in September 2019 and that amendment came into force on 18 October 2019. Refer to Section 1 of 'Additional Information to the Control of Vehicles on Beaches Bylaw 2009'.

3. Application

3.1 This Bylaw applies to the Whangarei District.

Part 1 Preliminary provisions

4. Purpose

4.1 The purpose of this Bylaw is 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.

5. Interpretation

5.1 In this Bylaw, unless the context otherwise requires:

Authorised agency means Whangarei District Council, New Zealand Police, New Zealand Fire Service, any Emergency Ambulance Service, Northland Regional Council, Department of Conservation, any Central Government Department or Ministry, the National Institute of Water and Atmospheric Research and any surf life saving club registered with Surf Life Saving Northern Region.

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

Council means the Whangarei District Council.

Dune means any natural hill, mound or ridge of sediment, or any series of such, landward of a coastal beach or on the border of a large lake or river valley that is deposited by wind action or storm over wash, and sediment deposited by artificial means and serving the purpose of storm damage prevention or flood control and includes three metres of the beach immediately adjacent to the toe of the dune, but does not include any private property or any land administered by the Department of Conservation.

Enforcement officer means:

- a) any person appointed by Council under section 177 of the Local Government Act 2002 as an enforcement officer
- b) any parking warden appointed by Council under section 128D of the Land Transport Act 1998
- c) any person defined as an enforcement officer under section 2(1) of the Land Transport Act 1998.

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

5.2 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be made, amended and revoked without formality.

5.3 The Interpretations Act 1999 applies to this Bylaw.

Part 2 Vehicles on Beaches

6. Prohibitions

6.1 All vehicles are prohibited on dunes at all times.

6.2 Subject to exemptions provide for elsewhere in this Bylaw, all vehicles are prohibited in the areas identified in Schedule 1 at all times.

Explanatory note: The provisions of Council's District Plan and other bylaws apply to all vehicles on beaches. This includes, but is not limited to, the Speed Limits Bylaw 2005, the Parking and Traffic Bylaw 2009 and the Public Places Bylaw 2014. The Land Transport Act 1998 defines a beach as a road and therefore all relevant traffic rules and regulations apply to any vehicles on beaches.

7. Exemptions

7.1 Any employee, contractor or nominee of an authorised agency who is carrying out the lawful functions or activities of that authorised agency may use a vehicle in any area identified as prohibited in Schedule 1 of this Bylaw.

7.2 Council may issue exemption permits for the areas identified in Clause 6.2.

7.3 Council may impose such conditions as are deemed necessary on any exemption permits issued.

7.4 Council may revoke an exemption permit at any time.

Part 3 Enforcement, offences and penalties

8. Offences

8.1 Every person commits an offence against the Bylaw who:

- a) commits a breach of this Bylaw
- b) omits, fails or refuses to do anything required by this Bylaw.

8.2 Nothing in this clause limits the liability of any person to be proceeded against for an infringement offence under section 138 of the Land Transport Act 1998 or sections 245 and 259 of the Local Government Act 2002.

9. Persons to provide details

9.1 Where an enforcement officer has reasonable grounds to believe a person has failed to comply with any provision of this Bylaw the person shall, on demand by an enforcement officer, give his or her full name and full address.

10. Offenders to leave beach

10.1 Where an enforcement officer has reasonable grounds to believe 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.

11. Penalties

11.1 Without limiting the liability of any person under any enactment, for a breach of this Bylaw, any person who commits an offence against this Bylaw is liable to:

- a) in the case of an offence against clause 6 or 7 of this Bylaw, a fine not exceeding \$500. If the offence is an infringement offence under the Land Transport Act 1998, the infringement fee fixed by that Act or regulations made under the Land Transport Act 1998 or any subsequent amendments to that Act or regulations.
- b) in the case of an offence against clause 9 or 10 of this Bylaw a fine not exceeding \$20,000.

Part 4 Savings, transitional provisions

12. Existing exemptions to continue in force

12.1 Every exemption issued under the Bylaw is subject to clauses 7.3 and 7.4 of the Bylaw.

Schedule 1

1.1 Map 1 – Ruakaka Beach South

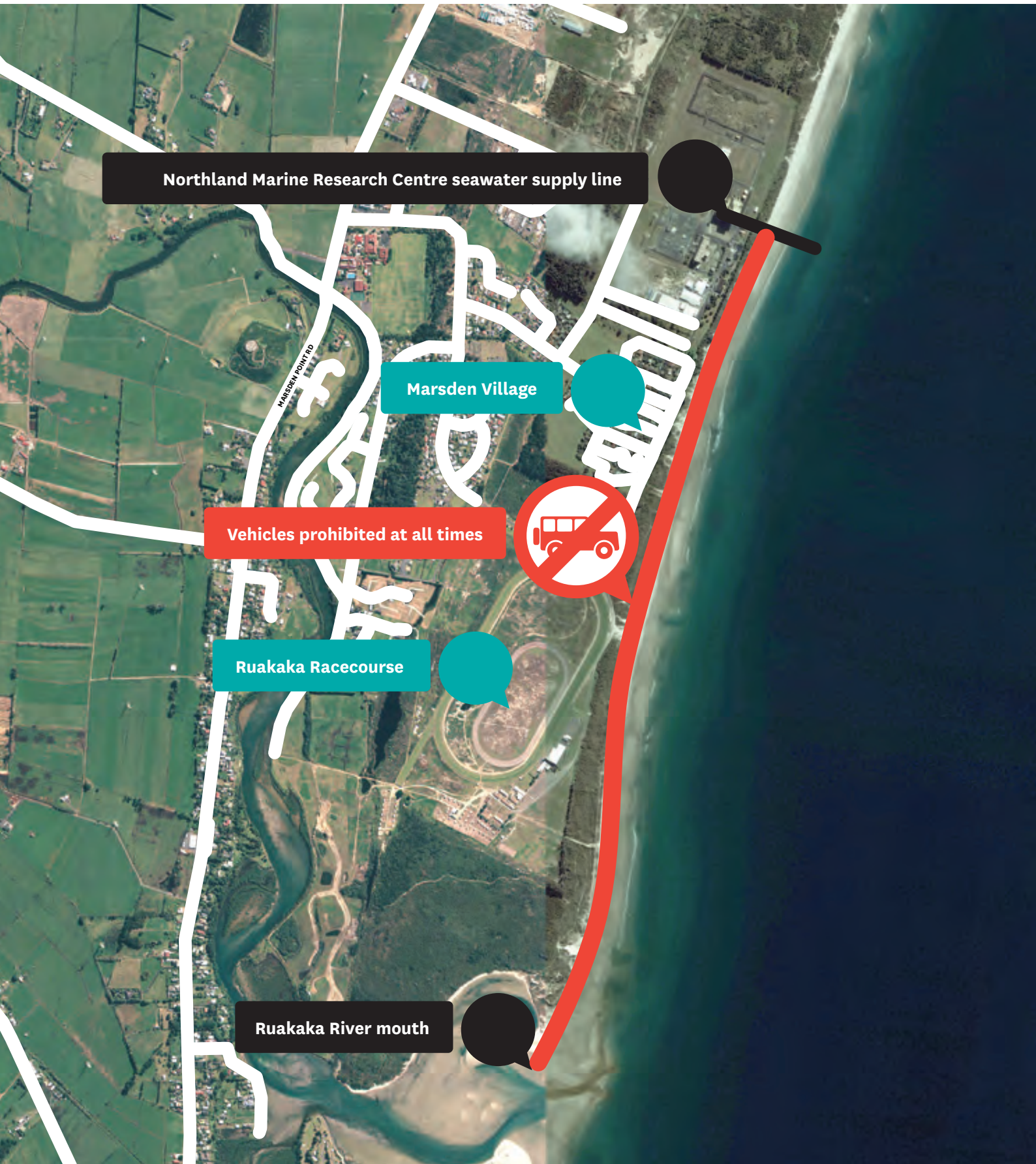
Vehicles are prohibited at all times between the entry point to the beach at Bream Bay Drive Pedestrian Accessway (as indicated on the map) and northwards to the Ruakaka River mouth.



1.2 Map 2 - Ruakaka Beach North

Vehicles are prohibited at all times between the point where the seawater supply line for NIWA's Northland Marine Research Centre intersects the beach (as indicated on the map) and southwards to the Ruakaka River mouth.

Explanatory note: The start of the prohibited area is approximately 500 metres north of the pedestrian access point off Karawai Street.



1.3 Map 3 – Langs Beach

Vehicles are prohibited at all times from 20m northwest of the vehicle beach access off Cove Road (as indicated in red on the map) to the north-western end of the beach.

No person may drive, ride or park, or otherwise bring any vehicle or trailer onto the part of Langs Beach that is south-east of the vehicle access point (as indicated in black on the map) in a manner that:

- a) Causes damage to the beach; or
- b) Causes a nuisance to another person; or
- c) Is dangerous; or might be dangerous to the public or any other person; or
- d) Exceeds the posted speed limit.

Explanatory note: Vehicles may access the beach from the vehicle access point to the eastern end of the beach and boat launch point, provided that they observe the posted speed limit, all normal road rules and do not drive in a dangerous manner.



Additional information to Control of Vehicles on Beaches Bylaw 2009

This document is for information purpose only and does not form part of this Bylaw. It contains matters made pursuant to this Bylaw and information to help users to understand, use and maintain this Bylaw. The document may be updated at any time.

Section 1 History of Bylaw

Action	Description	Date of decision	Commencement
Make	Vehicles on Beaches Bylaw 2009	25 November 2009	7 December 2009
Amend	Vehicles on Beaches (Amendment No 1) Bylaw 2016	29 September 2016	21 October 2016
Amend	Vehicles on Beaches (Amendment No. 2 – Vehicles on Langs Beach) 2019	26 September 2019	18 October 2019

Section 2: Related documents

Document	Description	Location
Reports to Council/Committee/Panels		
Appropriateness of Bylaw – Vehicles on Beaches	Appropriateness of a bylaw to address the perceived problem.	Q:\COUNCIL AGENDAS\Open\2009\Council\25 February\Open
Vehicles on Beaches Bylaw – Statement of Proposal	Statement of Proposal including draft Bylaw adoption for public consultation.	Q:\COUNCIL AGENDAS\Open\2009\Council\24 June\Open
Vehicles on Beaches Bylaw submission	Receive submissions and hear submitters who wish to be heard.	Q:\COUNCIL AGENDAS\Open\2009\Extra-Ordinary Council\1 September
Vehicles on Beaches Bylaw Workshop	Discussion of submissions received.	Q:\COUNCIL AGENDAS\Open\2009\Council Workshops\23 September
Making of Bylaw	Deliberations and decision to make final bylaw.	Q:\COUNCIL AGENDAS\Open\2009\Council\25 November\Open
Vehicles on Beaches Bylaw review	Briefing on analysis undertaken for review of Bylaw under s158 of the LGA.	http://www.wdc.govt.nz/YourCouncil/CouncilMeetings/Documents/2016/Whangarei-District-Council-Briefing-Programme-2016-06-01.pdf
Review of Vehicles on Beaches Bylaw	Completion of review as required under s158 of the LGA and adoption of SOP for public consultation for proposed amendments to the Bylaw.	http://www.wdc.govt.nz/YourCouncil/CouncilMeetings/Documents/2016/Whangarei-District-Council-Agenda-2016-06-22.pdf
Hearings Report	Receive submissions and hear submitters to be heard.	http://www.wdc.govt.nz/YourCouncil/CouncilMeetings/Documents/2016/Extra-Ordinary-Whangarei-District-Council-Agenda-2016-08-16.pdf
Submission issues raised	Briefing report on submission issues raised for questions/clarification.	http://www.wdc.govt.nz/YourCouncil/CouncilMeetings/Documents/2016/Whangarei-District-Council-Briefing-2016-08-23.pdf
Deliberations	Deliberations on submission issues raised.	http://www.wdc.govt.nz/YourCouncil/CouncilMeetings/Documents/2016/Extra-ordinary-Whangarei-District-Council-Agenda-2016-09-07.pdf
Amendments to Bylaw	Confirmation of amendments to Bylaw	http://www.wdc.govt.nz/YourCouncil/CouncilMeetings/Documents/2016/Whangarei-District-Council-Agenda-2016-09-29.pdf

Document	Description	Location
Vehicles on Beaches Statement of Proposal	Statement of Proposal, including draft amendment for Langs Beach adoption of public consultation.	https://pub-wdc.escribemeetings.com/FileStream.ashx?DocumentId=1137
Hearings Report	Receive submissions and hear submitters who wish to be heard.	https://pub-wdc.escribemeetings.com/FileStream.ashx?DocumentId=1221
Submissions issues raised	Briefing report on submission issues raised for questions / clarification.	https://pub-wdc.escribemeetings.com/FileStream.ashx?DocumentId=1237
Deliberations	Deliberations on submission issues raised	https://pub-wdc.escribemeetings.com/FileStream.ashx?DocumentId=1243
Amendments to Bylaw	Confirmation of amendments to Bylaw	Link to be provided
Legislation		
Local Government Act 2002	Provides certain functions, duties, powers and penalties to make and enforce this bylaw.	www.legislation.govt.nz
Land Transport Act 1998	Provides certain functions, duties, powers and penalties to make and enforce this bylaw.	www.legislation.govt.nz
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws.	www.legislation.govt.nz
Interpretations Act 1999	Provides for certain matters related to the interpretation of bylaws.	www.legislation.govt.nz

Section 3: Delegations

Clause	Function, Duty, Power to be delegated	Delegated Authority	Delegation date	Delegation active date
6.2	Authorisation of exemptions	Regulatory Services Manager	29 September 2016	21 October 2016
6.2	Provision of keys for approved keyholders to access Ruakaka Beach through the gate adjacent to the Ruakaka Beach Surf Life Saving Patrol Building (authorisation of exemptions)	Customer Services Officers & Customer Services Representatives. Keys will be issued in accordance with the operational policy approved by the Group Manager District Living.	29 September 2016	21 October 2016

Section 6: Enforcement powers

Legislative provision	Description
Local Government Act 2002	<p>Section 239 Offences in respect of breaches of bylaws (other than alcohol bans)</p> <p>Every person commits an offence and is liable on conviction to the penalty set out in section 242(4) or (5) (as the case may be), who breaches a bylaw made under Part 8 (other than a bylaw made under section 147).</p> <p>Section 242 Penalties for offences</p> <p>(4) A person who is convicted of an offence against a bylaw made under Part 8 (other than a bylaw made under Part 8 referred to in subsection (5)) is liable to a fine not exceeding \$20,000.</p>

Land Transport Act 1998	<p>Part 9 Allows enforcement officers, including members of Police, to enforce the provisions of the Local Government Act 1974, the Local Government Act 2002, the Road User Charges Act 2012, the Government Roothing Powers Act 1989, the Railways Act 2005, the Land Transport Management Act 2003, and the Land Transport Act 1998, and any regulations and rules and bylaws in force under any of those Acts.</p> <p>Section 128E</p> <p>Allows parking wardens to enforce any stationary vehicle offence or special vehicle lane; may remove or direct the driver to remove any vehicle if it is obstructing the road, or it is desirable to remove the vehicle in the interests of road safety or for the convenience or interests of the public.</p> <p>Section 139</p> <p>Allows enforcement officers and parking wardens to issue an infringement notice or proceed with a prosecution under the Criminal Procedures Act 2011.</p>
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Section 7: Offences and penalties

Bylaw Provision	Legislative provision	Description of offence	Maximum fine upon conviction	Infringement fee
Clauses 6 and 8.1(a) (stopping, standing or parking)	Land Transport (Offences and Penalties) Regulations 1999	Failure to comply with the relevant provisions of a bylaw made under section 22AB	\$500	\$40
Clauses 6 and 8.1(a) (driving a vehicle)	Land Transport (Offences and Penalties) Regulations 1999	Failure to comply with the relevant provisions of a bylaw made under section 22AB	\$1,000	\$150
		As prescribed in Schedules 1 and 1B of the regulations	Varies	Varies
Clauses 6 and 8.1(a)	Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011	As prescribed in Schedule 6 of the regulations	Varies	Varies
Clauses 8.1(b) and 9 or 10	Local Government Act 2002	Breach of Bylaw	\$20,000	NA