

# REPORT AND RECOMMENDATIONS OF THE VEHICLES ON BEACHES NATIONAL WORKSHOP 12 OCTOBER 2005 TUTUKAKA

To: **The Right Honourable Helen Clark, Prime Minister**  
**The Honourable David Benson-Pope, Minister for the Environment**

## EXECUTIVE SUMMARY

The Northland Regional Council, together with all agencies and persons who have made the attached endorsements, advises that a national all-party workshop was held on 12 October 2005 to address significant confusion and issues surrounding the use of vehicles on beaches throughout New Zealand.

The goal of the workshop was to make recommendations concerning the need for Government acceptance and expeditious action on the issues identified in the course of the workshop.

The following issues were identified:

1. There is a national policy vacuum on the issues raised in respect of vehicle use on beaches.
2. Administrative boundaries and jurisdictions often conflict and fragment any reasonable approach to the administration of vehicles using beaches.
3. There is a need for a single desk approach for the administration of vehicular use of beaches.
4. Science and social research is required in order to ascertain the effects and impacts of vehicles using beaches.
5. Enforcement abilities are unclear and inadequate as a result of conflicting regulation and jurisdiction, leading to confusion about who can or should enforce.
6. Legal definition discrepancies about what constitutes a road, and lack of definition about what constitutes a beach, should be addressed.

## RECOMMENDATIONS

That, adopting a whole of government approach, steps should be taken to investigate and respond to the range of issues associated with vehicles using beaches and such steps should, in particular, address the following:

- (a) Review all agencies with jurisdiction and statutory responsibility over beaches with a view to identifying a single desk agency at a national level, responsible for developing national policy addressing vehicular use of beaches throughout New Zealand.
- (b) The environmental, social and cultural issues affected by vehicles on beaches, in particular the commissioning of scientific research to establish the environmental, social and cultural impacts that vehicles have when driving on beaches, together with the economic and recreational benefits derived from vehicle use of beaches.
- (c) With urgency, address the issues arising from different interpretations concerning whether beaches are roads, with a view to settling whether beaches are roads or whether they are simply roads for the purpose of the Traffic Regulations. In addition, investigate a definition that constitutes what a beach is for legal purposes.

- (d) The means by which enforcement of vehicles using beaches can be undertaken with a view to establishing a simple, clear, enforceable regime capable of being applied consistently across New Zealand.
- (e) The role of education programmes and voluntary codes of conduct towards addressing the ecological and social issues arising from vehicular use of beaches.

The full proceedings and recommendations of the all-party national workshop on vehicles on beaches follow for your consideration.

### **WORKSHOP PARTICIPATION AND PROCEEDINGS**

As this workshop was designed to be an all-party conference, invitations to attend were sent nation-wide including to regional and district councils, government agencies including the Department of Conservation, Land Transport New Zealand, Department of Internal Affairs, the New Zealand Police and the Ministry for the Environment.

It is noted that the New Zealand Conservation Authority gave its support to the all-party workshop and Conservation Boards were advised of the workshop.

The purpose of the workshop was set out as:

**“To develop recommendations on management and governance of the vehicles on beaches issue for presentation to the Minister for the Environment.”**

It was later decided to forward the recommendations to the Prime Minister as well as the Minister for the Environment, to highlight the difficult issues that were considered in the course of the workshop, signalling that a “whole of government” approach might be required to address the issues.

Sixty-eight people attended the workshop from around New Zealand. A professional facilitator, Sioux Campbell, facilitated the workshop, which was opened by Councillor Lorraine Hill from the Northland Regional Council. The workshop programme was pre-circulated to all attendees, including the following eight guest speakers:

1. Tony Seymour, Coastal Planning Team Leader, Northland Regional Council

Mr Seymour set out the historical setting for the workshop, identifying that the workshop arose from an appeal on the Regional Coastal Plan for Northland. He identified that Northland has significant issues with vehicles on beaches, noting the commercial activities associated with tourism on Ninety Mile Beach and identifying the difficulties of jurisdiction and enforcement arising from the arbitrary administrative boundary of the line of Mean High Water Springs.

2. Piet Nieuwland, Department of Conservation

Mr Nieuwland set out the role the Department of Conservation has and discussed the ecological sensitivity of the coastal environment, including beaches, and the impacts of recreational vehicles on the environment. He described the approach the Department of Conservation has to the issues raised by vehicles on beaches and identified difficulties in addressing such issues.

3. Donald Riezebos, Department of Internal Affairs

Mr Reizebos discussed the territorial seaward administrative boundaries established under the Local Government Act 1974 between regional councils and district councils and described their effects in terms of the bylaws each was able to prepare in respect of their administrative boundaries. He demonstrated how such boundaries could be changed by Order-in-Council.

4. John Kelly, Acting National Road Policing Manager, New Zealand Police

Mr Kelly gave the New Zealand Police view that all beaches are roads within the meaning of the Transport Act and set out that, while the Police are capable of enforcing the Traffic Regulations on beaches, this is a low priority area for policing of roads in New Zealand and no resources are available to enforce the Traffic Regulations.

5. Peter Vahry, New Zealand Four Wheel Drive Association Public Relations (Northern Zone)

Mr Vahry identified that the NZFWD Association represents over 2000 members in 54 clubs throughout New Zealand. He identified that beaches have historically been important transport routes around New Zealand from the time of early settlement. He asserted that recreational vehicular uses of beaches remained popular despite increasing restrictions to accessing beaches generally. He suggested that there was little evidence that properly managed vehicular access to beaches created adverse environmental effects and suggested that where regulation had been attempted, it was not effective in solving issues.

6. Fred Murray, Board Member/Convenor of Board's Planning Committee, Aoraki Conservation Board

Mr Murray discussed the option of developing a Code of Ethics for vehicular access to beaches drawn from the International Offroaders' Code of Ethics, approved before 1986. He then discussed the issue of where to drive on beaches to avoid ecologically sensitive areas.

7. Christine Jacobson, Senior Policy Analyst, Department of Conservation

Ms Jacobson gave an overview on the scope of national policy statements under the Resource Management Act 1991, and in particular the process for review currently being undertaken on the New Zealand Coastal Policy Statement. She discussed the complexity of issues raised by vehicles on beaches and sought advice on how the NZCPS might address the issues.

8. Andrew Wharton, Environmental Planner, Environment Bay of Plenty

Mr Wharton described a co-operative model being developed between district councils and Environment Bay of Plenty, together with the Department of Conservation, to address the issue of vehicles on beaches, recognising the overlapping and confusing jurisdictions each agency has. He identified the possibilities and difficulties of these arrangements.

### **WORKSHOP PROCEDURE FOLLOWING PRESENTATIONS**

Following the presentations, the workshop was broken into 10 groups. Five questions/issues were put to two separate groups for discussion. The questions were:

1. Boundary and Jurisdictional Issues – Regional or New Zealand approach? Do we need a lead agency?
2. Enforcement – Who? When? What controls should be in place?
3. Ecological and cultural issues – What are the key issues? What mitigating measures could/should be in place?
4. What is legitimate use (of vehicles on beaches)? How should it be defined and by whom? How should this be linked to legislation?
5. Public education, voluntary codes of conduct, permits etc. – How? When? Who?

After the group discussions were completed, the two groups with the same question were invited to join and compare notes on the responses they had made in their individual groups. They were then to report back to the workshop with their joint findings.

The findings were as follows:

**For Question 1:**

**Boundary and Jurisdictional Issues – Regional or New Zealand approach? Do we need a lead agency?**

Clarification of the law and its implementation in terms of beaches in New Zealand is required.

The preparation of model bylaws, which take in account national input of legitimate activity management may be produced by a national agency.

A national framework is desirable. The framework needs to link all agencies such as the Ministry for the Environment and Department of Conservation, and should define a lead agency.

National leadership and consistency is required to establish responses to definitional issues etc.

A lead agency is required to address how uncertainty between environmental protection and safety should be addressed.

It is important to recognise that "safety" encompasses humans and the environment.

A regional approach may be appropriate following the establishment of a lead agency because of different beaches and lack of consistency between territorial authorities and the fact that not all territorial authorities have extended their jurisdiction to Mean Low Water Springs.

Regional co-ordination should lead to the identification of a suite of tools appropriate for the region.

Infringement powers in the Local Government Act may be insufficient to control vehicles on beaches.

Lead agencies:

- Ministry of Education
- Department of Conservation
- Ministry of Local Government
- Ministry of Police
- Ministry of Transport
- Ministry of Sport and Recreation.

**For Question 2:**

**Enforcement – Who? When? What controls should be in place?**

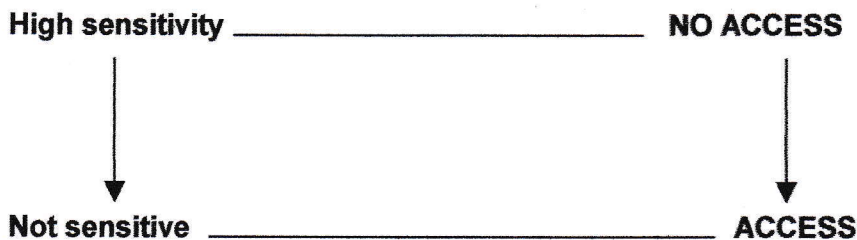
- Who?
  - Capacity to fulfil it.
  - Delegated authority to and between agencies (cross agency).

- When?
  - When decided by the people as requested.
  - Zone based approach.
  - Target resources to peak times - summer/weekends.
  - Do it where it's really important.
- What?
  - National toolbox (ensure that such a toolbox targets all issues – environment/safety).
  - Give clarity to people as to what they can and can't do.
  - 0800 dob in.
  - Immediate response and consistency.
  - Blitzes.
  - Car free days.
  - Instant fines.
  - Standardised signage system, eg, road code.
- The parameters:
  - Permanent ban.
  - Permit only.
  - Vehicles allowed.
- Police can delegate authority to other organisations.
  - To all agencies (0800 numbers).
  - Warranted people.
- Rules must be designed for simplicity.
- Whatever it is – capacity.
- Single agency but embracing functions.

**For Question 3:**

**Ecological and cultural issues – What are the key issues? What mitigating measures could/should be in place?**

- Carrying capacities, eg, zero tolerance and access issues.



- Temporal sites, ie, sites that provide access at appropriate times.
- Extending national level research programmes (ASCN).
- Community input to site suitability for access/use levels if at all.
- Sensitivity at certain times of the year.
  - Seasonal offer.
- Defining rights.
  - It is a right or is it a privilege?
  - What right do we have to impinge on other people's rights?
  - Who is right?
  - What form does that right take?
  - Need 'community' process to define 'rights'.
- Define cultural ecological areas/ecological areas.
  - Off-beach, private or public recreation opportunity.
  - Ecological significant areas (all levels).
  - OSH issues.
- Clarify legislation before any effective enforcement or warranting.

#### **For Question 4:**

**What is legitimate use? How should it be defined and by whom? How should this be linked to legislation?**

- *Definitions* – ‘safe’ to people and environment.
- Legitimate use is anything that is legal but needs clarification.
  - Clarification of the law and its implementation in terms of beaches in New Zealand.
  - Promotion of legitimate use/ready and easy.
- Consistency within reason but also at national level.
  - Clarity of legislation.
  - Model bylaws (for locals and visitors), which take into account national opinion.
  - Input of legitimate activity management.
  - Community and local development of key bylaws.
  - Without enforcement nothing will work.
- Seasonal cycles.
- Feedback loop to assess cumulative effects.
- Incorporate knowledge.
- Cultural perceptions and differences re legitimate use.
- Properly constructed access points.
  - Sand ladders (can be readjusted when necessary).
- Consistency within reason but also at national level.
  - Clarity of legislation.
  - Model bylaws (for locals and visitors), which take into account national opinion.
  - Input of legitimate activity management.
  - Community and local development of key bylaws.
  - Without enforcement nothing will work.
  - Sensible, cheap and consistent.
- Definition descriptive to clarify where people can drive.
- Concerns about permitting vehicle use for fishers.
- Community reporting and feedback.
- Setting up schemes.
  - Coast watch.
  - Road watch.
- Sensible, cheap and consistent.

#### **For Question 5:**

**Public Education, voluntary codes of conduct, permits etc. – How? When? Who?**

- How?
  - National policy guidance.
  - Collation of science information.
  - Gap analysis.
  - Codes of practice.
  - Consistent messages (pamphlets, maps, signage, access permits).
  - Fisheries.
  - NZCPS.
  - Leave it to the MFE to decide suitable legislation.
- When?
  - As soon as possible.
  - One year (?)
- Who?
  - Central government to take a lead.
  - Regional councils to some degree.
  - Community groups.
  - Schools.
- Consistent, clear guide to legislation.
- How can we link bylaws and key issues?
- Investigate the range of issues associated with vehicles On beaches and address:

- All agencies with jurisdiction and statutory responsibilities over beaches.
- The environmental, social and cultural issues affected by vehicles on beaches.
- The means of enforcement with a view to establish a simple, clear regime which is able to be applied consistently across the country.
- The role which education can contribute to the issue.

## **PLENNARY DISCUSSION**

Following the reporting of these discussions, a plenary session was held with all participants to discuss the findings and draw out recommendations that might be forwarded to the Minister for the Environment. Clear issues were identified.

1. There is a national policy vacuum on the issues raised in respect of vehicle use on beaches.

The workshop found that while, in some circumstances, vehicle use of beaches throughout New Zealand was appropriate, there is no national guiding policy for instances contained in the New Zealand Coastal Policy Statement, or any other national policy statement issued by Government. As the issue of vehicle use of beaches is a national issue, the workshop considered that there should be clear national guidance on vehicle access, social and environmental effects and enforcement.

2. Administrative boundaries and jurisdictions often conflict and fragment any reasonable approach to the administration of vehicles using beaches.

There are arbitrary boundaries, such as the line of Mean High Water Spring, and overlapping jurisdictions, such as bylaws, district and regional plans, and Traffic Regulations which fragment management and responsibility for management so that there is no lead agency and the public is uncertain about who is responsible. In addition there is a general lack of funding for any of the responsible agencies to undertake work on education or enforcement.

3. There is a need for a single desk approach for the administration of vehicular use of beaches.

Currently the following agencies have some legislative responsibility for managing vehicles on beaches:

Regional Councils – Regional Coastal Plans and Bylaws  
 District Councils – District Plans and Bylaws  
 New Zealand Police – Traffic Regulations  
 Department of Conservation – Reserves, Wildlife Refuges and Conservation Land.

All these agencies may develop and operate different legislative approaches that may conflict with each other or be overridden due to statutory interpretation principles, ie, bylaws are inferior law to regulations and if they are inconsistent then the bylaw must give way to regulation. The different agencies have different priorities for effort and budgeting. It is not an uncommon experience for one agency to advise the public to approach another where there are overlapping jurisdictions.

4. Science and social research into the effects and impacts of vehicles using beaches.

There is little research available that presents a coherent and comprehensive view on what effects vehicles have on beaches and coastal communities or what benefits communities derive from the ability to use vehicles on beaches. Such benefits may include economic and recreational benefits.

## 5. Enforcement abilities

It was recognised that different agencies had different enforcement abilities. Not all enforcement powers available are practical or able to be implemented. It was identified that the New Zealand Police have the power to stop a vehicle and issue a range of notices, however enforcement of the Traffic Regulations on beaches is a low priority (understandably) for the Police. The Department of Conservation has an ability to stop vehicles on beaches but only for a narrow range of issues. Regional and district council enforcement officers cannot stop a vehicle on a beach and must work around the arbitrary administrative line of the Mean High Water Springs.

Bylaw enforcement officers cannot stop vehicles on beaches and the penalties under bylaws are considered insufficient to be a deterrent to inappropriate vehicular activity.

Voluntary codes of conduct may have moral suasion but cannot be enforced directly. There are many vehicles driving on beaches that are not part of affiliated clubs that adhere to such voluntary codes of conduct.

## 6. Definition discrepancies and lack of definition should be addressed.

Two significant issues regarding legal definitions arose in the course of the workshop. Firstly, the New Zealand Police stated that according to the Transport Act, all beaches were legally classed as roads. On enquiry, Mr Kelly asserted that, in the Police view, beaches are legal roads. However a contrary view was put forward that beaches were described as roads only for the purpose of ensuring that the Traffic Regulations apply to vehicles on beaches. The different interpretation may have a profound effect because if beaches are legal roads then the prevention or restriction of vehicle access to and along beaches becomes very much more difficult to achieve, given that in law there is a presumption that vehicles are entitled to be driven on roads.

The second major issue of definition, coupled with the first, is what constitutes a beach? Does a beach, in law, include the sand dunes, favoured by motorbikes and beach buggies? There is no definition of a beach and considerable dispute as to what constitutes a beach in geomorphological terms.

## RECOMMENDATIONS

It is therefore proposed that the following recommendations be made to the Prime Minister and the Minister for the Environment:

That, adopting a whole of government approach, steps should be taken to investigate and respond to the range of issues associated with vehicles using beaches and such steps should, in particular, address the following:

- (a) Review all agencies with jurisdiction and statutory responsibility over beaches with a view to identifying a single desk agency at a national level, responsible for developing national policy addressing vehicular use of beaches throughout New Zealand.
- (b) The environmental, social and cultural issues affected by vehicles on beaches, in particular the commissioning of scientific research to establish the environmental, social and cultural impacts that vehicles have when driving on beaches, together with the economic and recreational benefits derived from vehicle use of beaches.
- (c) With urgency, address the issues arising from different interpretations concerning whether beaches are roads, with a view to settling whether beaches are roads or whether they are simply roads for the purpose of the Traffic Regulations. In addition, investigate a definition that constitutes what a beach is for legal purposes.

- (d) The means by which enforcement of vehicles using beaches can be undertaken with a view to establishing a simple, clear, enforceable regime capable of being applied consistently across New Zealand.
- (e) The role of education programmes and voluntary codes of conduct towards addressing the ecological and social issues arising from vehicular use of beaches.

This report has been circulated to all attending parties, which have, if they consider it appropriate, attached an endorsement of the recommendations to be made to the Prime Minister and Minister for the Environment.