



*Western Bay of Plenty
District Council*

Reserves and Facilities Bylaw 2018

Explanatory Note

The purpose of the Reserves and Facilities Bylaw is to provide for the orderly management and control of Council facilities and reserves vested in or under the control of Council for the benefit and enjoyment of all users of those facilities and reserves.



Western Bay of Plenty District Council

Reserves and Facilities Bylaw 2018

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Title

This Bylaw is the Reserves and Facilities Bylaw for Western Bay of Plenty District Council and shall come into force on 9 November 2018.

Bylaw Structure

This Bylaw comprises this document and attached schedules.

Revocation

At the coming into force of this Bylaw, the Western Bay of Plenty District Council Reserves and Facilities Bylaw 2012 is revoked.

Scope

This bylaw shall apply to the whole of the district administered by Western Bay of Plenty District Council, and other locations that are controlled by Western Bay of Plenty District Council, now and in the future.

Validation

The Western Bay of Plenty District Council Reserves and Facilities Bylaw 2018 was duly made at a meeting of the Western Bay of Plenty District Council held after completion of the Special Consultative Procedure and will come into force on 9 November 2018.

The Common Seal of the Western Bay of Plenty District Council was affixed pursuant to a resolution of Council on 1 November 2018 in the presence of:



Chief Executive Officer

Seal

Date 2 November 2018



Western Bay of Plenty District Council

Reserves and Facilities Bylaw 2018

1. Introduction

1.1 Definitions

Authorised Officer – means an officer or other person appointed by the Council to perform duties required under this bylaw, irrespective of the designation given to that officer or person and includes any Police Officer.

Beach – means any land in the Council’s district adjacent to any seacoast which is part of the foreshore, or is land contiguous to and used in connection with the foreshore, and to which the public has a right of access. For the purposes of this bylaw, the beach includes the foreshore which is the part of the bed, shore or banks of tidal water between mean high water springs and mean low water springs.

Bylaw – means a bylaw of the Local Authority for the time being in force, made under the provisions of any Act or authority enabling the Local Authority to make Bylaws.

Controlling Officer - means a person for the time being who is officially in charge of the facility or reserve area.

Council or District Council - means the Western Bay of Plenty District Council or a duly Authorised Officer of the Council.

District – means the area administered by the Western Bay of Plenty District Council

Facility – means any public toilet, public swimming pool or other recreational or administrative facility provided by and/or administered by Council.

Remotely Piloted Aircraft Systems (RPAS) – includes Unmanned Aerial Vehicles, Unmanned Aerial Systems, remote controlled model aircraft and drones.

Reserve – means any open space, playing field, plantation, park, garden or ground set apart for public recreation or enjoyment which is under the management or control of the Council and includes any Facility, structure or building within those reserves.

Vehicle – has the same meaning as in the Land Transport Act 1998.

Vessel – means any ship or boat and includes a motor vessel (such as a standardised motorised private launch boat), any yacht, inflatable rubber boat, kayak, jet ski and any fishing boat.

2. General

2.1 The Council may from time to time, by resolution:

- (a) Adopt a policy for the purpose of protecting, maintaining, preserving, developing or enhancing the Council facilities and reserves under its control;
- (b) Set the terms and conditions applicable to the granting by Council of any licence, right, permit or approval in respect of any activity in or about any Council facility or reserve under its control;
- (c) Establish and fix fees for any licence, right or permit given in connection with any Council facility or reserve; or
- (d) Establish and fix fees for admission to or use of any Council facility or reserve.

2.2 Any person who is granted any licence, right or permit, or approval by Council in respect of any activity on or in any Council facility or reserve shall comply with any attached conditions. Any person who fails to comply with such conditions shall be guilty of an offence against this bylaw.

3. Conduct in Facilities

3.1 In any Council facility no person shall:

- (a) Pollute, damage or interfere with any facility or deface or disfigure any surface, structure or exhibit within a facility;
- (b) Fail to comply with all reasonable requests of any officer of the Council or appointee of Council on duty at the facility;
- (c) Smoke tobacco or any other substance, or consume food or any liquid, other than water, within a facility except in areas where this is specifically permitted;

- (d) Consume any intoxicating liquor, except in areas set apart for the purpose, or at an authorised function;
- (e) Consume, inject or inhale any mind-altering substance or offer or sell such substance to any person;
- (f) Permit any animal under their control or ownership to enter a facility, provided disability assist dogs may be permitted to enter;
- (g) Enter a restricted area or an area set apart for staff at or in a facility without permission of a staff member;
- (h) At or in a facility, deposit or throw any litter, or any substance or article that is likely to be of a dangerous or offensive nature, except in a place or receptacle provided for that purpose; or
- (i) Behave in any way that could interfere with or prevent another person's enjoyment of the facility.

3.2 No child under the age of 10 (ten) years shall be allowed to enter or remain in any facility unless such child is accompanied by a person over the age of 14 years, or where the controlling officer gives approval for that child to enter or remain.

3.3 Any person who in the opinion of the controlling officer is not in a fit state to be admitted shall not enter, or having entered, shall leave a facility when requested to do so by the controlling officer or any site attendant.

4. Ordering out

- 4.1. Any person who in the opinion of the controlling officer:
- (a) Is contravening or has contravened any of the provisions of this bylaw or any rules made pursuant to the bylaw; or
 - (b) Is not a bona fide user of the facility for the purpose for which it is intended; or
 - (c) Has acted in an unlawful or disorderly manner in or on a facility:
 - i. shall upon the request of the controlling officer immediately leave; and
 - ii. the person shall be liable to be prosecuted for any contravention of this bylaw.
- 4.2. Any person who fails to leave a Council facility when so requested by the controlling officer commits a further offence against this bylaw.
- 4.3. A controlling officer may exclude any person requested to leave a facility from the facility permanently or for such time as the controlling officer shall think fit.

- 4.4. The Council may restrict access by the public to all of (or certain areas of) a facility at specified times for the private use of a particular person or for the holding of a private function.

5. Access to Reserves

- 5.1 Subject to the provisions of this Bylaw and the Reserves Act 1977, all reserves will be open to the public.
- 5.2 The Council may determine the times during which a reserve or any part of a reserve, will be closed to the public.
- 5.3 No person, other than an authorised officer, may enter or remain in a reserve, or any part of a reserve, while it is closed to the public.
- 5.4 No person shall enter or leave any reserve except through the openings, gateways, entrances or exits provided for the purpose.
- 5.5 No person shall willfully obstruct any of the approaches, entrances, exits, thoroughfares, or walks of any reserve.
- 5.6 No person shall enter any reserve unless the reserve is open for public admission.

6. Leased or Licensed Premises in Reserves

- 6.1 Subject to the provisions of the Reserves Act 1977, the Council may lease premises in a reserve to any organisation or member of the public, or license any organisation or member of the public to use premises in a reserve, upon any conditions the Council considers.
- 6.2 No person may enter or use any building in a reserve that is subject to a lease or a licence other than the authorised officer or any other person in accordance with a lease or licence.

7. No Entry into Restricted Areas or Places in Reserves

- 7.1 The Council may specify any area or place in a reserve to be a restricted area or place.
- 7.2 No person may enter a restricted area or place without the prior written permission of Council.
- 7.3 Every person to whom the Council grants permission under clause 7.2 must comply with any conditions imposed by the Council in that written submission.

8. Prohibited and Restricted Activities in Reserves

- 8.1 No person shall interfere with any inscription, signage or any labels attached to or connected with any article, tree, shrub or other plant, or any notice used to indicate or exhibit any name, regulation or bylaw.
- 8.2 No person shall remove, damage, destroy, or attempt to remove, damage or destroy, any structure or fitting within any reserve.
- 8.3 No person shall, without prior written permission, take, deposit, remove or disturb any soil, shrub, tree or other growth, or take any seed, cutting or interfere with or pick or otherwise remove any flowers, ferns or greenery.
- 8.4 No person shall enter any area set apart for the cultivation of plants and growing of plants, including flowerbeds, nurseries and planted gardens.
- 8.5 No person shall deface by writing or otherwise or in any other manner damage the walls or any building or structure in any reserve, or therein act or use these buildings or structures in an inappropriate manner.
- 8.6 No person shall post or interfere with any placard, sign or noticeboard in, on or within any reserve without the prior written permission of an authorised officer of the Council, nor without such permission distribute any handbill or notice at the entrances to any reserve.

9. Litter

- 9.1. No person shall leave any litter within any reserve except in the litter bins provided.

10. Vehicles on Beaches

- 10.1. Except with the prior written permission of the Council or an authorised officer, and in accordance with any conditions that may be required, a person shall not park or drive any vehicle (excluding bicycles), motorcycle, or land yacht on any part of the beach.
- 10.2. Clause 10.1 shall not apply to:
- (a) Any vehicle driven along an authorised access way or parked in any authorised parking area; or
 - (b) Any vehicle used solely for the purpose of launching or retrieving any vessel; provided that:
 - i. the vehicle uses an authorised access way to go onto and leave the beach; and
 - ii. moves across the beach to and from the water using the shortest practicable route; and
 - iii. leaves the beach immediately once the vehicle has finished launching or retrieving a vessel.
- 10.3. Those vehicles referred to in clause 10.2 shall not be driven:
- (a) On any part of the beach at a speed in excess of 15 km/h
 - (b) Without due care and attention or without reasonable consideration for other persons using the beach; or
 - (c) In such a manner as to cause damage to the beach.
- 10.4. Any restrictions contained in the preceding clauses shall not apply to:
- (a) Law Enforcement Officers;
 - (b) Surf Patrol, Fire Rescue or Emergency Services Personnel;
 - (c) Council Officers (including Bay of Plenty Regional Council Officers and those involved in approved environmental programmes);
 - (d) Honorary Rangers (appointed by Council).

Provided they are in the course of carrying out their official duties.

ADVICE NOTE FOR CLAUSE 10:

In addition to this Bylaw, the Regional Coastal Environment Plan has rules to manage vehicles within the foreshore or seabed and some activities may require resource consent. For further information please contact the Bay of Plenty Regional Council.

11. Vehicles in Reserves

- 11.1 No person shall, without permission, park, ride or drive any vehicle, motorcycle, or bicycle on any reserve except on those areas set aside specifically for such purpose.
- 11.2 No person shall drive any vehicle in any reserve:
- (a) At a speed in excess of 15 km per hour or as otherwise indicated by signage (provided that this restriction shall not apply to those parks or reserves within which there are specifically designated areas for motorsport activities such as motorcycling, rallying or 4x4); and
 - (b) Without due care and attention or without reasonable consideration for other persons using the reserve; and
 - (c) In such a manner as to cause damage to the reserve.
- 11.3 Any restrictions contained in the preceding clauses shall not apply to:
- (a) Law Enforcement Officers;
 - (b) Fire Rescue or Emergency Services Personnel;
 - (c) Council Officers (including Bay of Plenty Regional Council Officers);
 - (d) Honorary Rangers (appointed by Council).

Provided they are in the course of carrying out their official duties.

12. Animals in Reserves (Other than Horses)

- 12.1 No person may bring any animal into a reserve or allow any animal in his or her custody, charge or control to be within a reserve, unless:
- (a) A Council bylaw has allowed the animal in the reserve, such as through a dog control bylaw and the related dog control policy;
 - (b) The Council has authorised the presence of animals through a reserve management plan, licence or other similar document;
 - (c) Permission has been granted by an authorised officer; or

- (d) The reserve has been booked for an event allowing the presence of animals.
- 12.2 Every person to whom the Council grants permission under clause 12.1 must comply with any conditions imposed by the Council in that written permission.
- 12.3 No person shall, without the prior permission of an authorised officer of the Council, turn in or allow any animal or poultry to wander or graze within the limits of any reserve.

13. Horses in Reserves and on the Beach

- 13.1 No person may take or ride any horse into or on a reserve or beach, or allow any horse in the person's custody, charge or control to be in a reserve or on a beach, unless the horse is:
- (a) Under the continuous control of the person or otherwise properly secure; and
 - (b) On a reserve or beach, or part of a reserve or beach specified by the Council as an area where a person may take or ride a horse in accordance with Schedule 1 to this Bylaw; or
 - (c) On a reserve or beach where there is dedicated signposted horse riding trails.
- 13.2 The Council may specify:
- (a) A reserve or beach, or any part of a reserve or beach, as an area where a person may take or ride a horse; and
 - (b) The time or times when a person may take or ride a horse into or in a reserve or beach, or part of a reserve or beach.
- 13.3 No person shall leave in a reserve or on the beach, any waste produced by a horse, unless placed in a rubbish bin provided by the Council for this purpose.
- 13.4 Council's code of conduct for horse riding areas must be adhered to at all times.

14. Water

- 14.1 No person shall permit or cause wastage of water or permit a water tap to flow for a longer period than may be reasonably required for the filling of utensils for drinking, cooking, or washing purposes; nor shall any person in any manner pollute or otherwise render unfit for use for human consumption or otherwise any supply in any reserve.

15. Lighting Fires

- 15.1 No person may light any fire in a reserve except:
- (a) in a place specifically provided by the Council for that purpose; or
 - (b) with the prior written permission of an authorised officer.
- 15.2 Any person who lights or uses a fire in a place specifically provided by the Council for that purpose commits an offence unless such fire is totally extinguished before that person leaves the reserve.

16. Bathing

- 16.1 No person shall bathe or wade within a reserve in any water where such bathing or wading has been forbidden by the Council.

17. Buying, Selling or Advertising in Reserves

- 17.1 No person may buy, sell or advertise any goods or services, or carry on a trade in a reserve without the prior written permission of the Council.
- 17.2 Every person to whom the Council grants permission under clause 17.1 must comply with any conditions imposed by the Council in that written permission.

18. Parades and Assemblies

- 18.1 Except with the prior written permission of the Council, and in accordance with any conditions that may be required, a person shall not on any reserve conduct any public meeting or gathering, or make any public address, or attempt to collect a crowd.

19. Children's Apparatus

- 19.1 No person over the age of 14 years shall use or occupy any swing, roundabout, slide, sandpit, seesaw, or any children's play apparatus.
- 19.2 Clause 19.1 shall not apply to playground apparatus specifically designed to be multi-generational.

20. Destruction of Animals

- 20.1 No person shall by any means whatsoever destroy, shoot, snare, injure, interfere with or take any animal, fish, bird, bird's nest or bird's egg, or attempt to do so, in or from any reserve without the prior written permission of an authorised officer of the Council.
- 20.2 Provided that in the case of any animal or bird protected by the Wild Life Act 1953, no such permission shall be granted unless and until the provisions of that Act have been complied with.

21. Firearms and Weapons

- 21.1 No person shall carry any firearm, axe or other instrument of a dangerous character, or any airgun, bow and arrow or use or discharge any such item, on any part of a reserve unless specifically authorised by the Council or an authorised officer.
- 21.2 No person shall let off any fireworks or throw stones either by hand or by means of a catapult or other appliance on any part of a reserve unless specifically authorised by the Council or an authorised officer.
- 21.3 No person shall use or throw projectiles or missiles (including but not limited to Frisbees or any other amusement device) in such a manner as to cause a nuisance or danger to other users of any reserve.

22. Aircraft

- 22.1 No person shall, without the written permission of an authorised officer, and having paid any applicable fees set by the Council from time to time –
- (a) Land an aircraft in a reserve, or take off in an aircraft from a reserve; or
 - (b) Use an aircraft to set down, pick up, or recover anything in a reserve; or
 - (c) Parachute into a reserve.
- 22.2 Nothing in clause 22.1 prevents any aircraft from being used in or over a reserve in an emergency situation.
- 22.3 Despite clause 22.1 Council gives permission for the operation of Remotely Piloted Aircraft Systems (RPAS) on reserves and beaches provided that the operations meet the requirements of the Civil Aviation Authority's Part 101 regulations and such operation does not cause annoyance, hazard or inconvenience to other users of the reserve or beach.
- 22.4 The Civil Aviation Authority is the enforcement agency for ensuring RPAS pilots meet the requirements of the Part 101 regulations and all complaints under clause 22.3 should be directed to them.

23. Interference with Employees and Contractors

- 23.1 No person shall in any reserve interrupt or interfere with any employee or contractor working.

24. Sports and Games in Reserves

- 24.1 Organised sports games may only be played in areas of reserves set aside as sports ground areas.
- 24.2 No person may play any organised sport or game in any reserves, or any part of a reserve:
- (a) after being requested by the controlling officer to leave; or
 - (b) when any notice is erected to advise that a reserve, or part of a reserve is closed to play.

- 24.3 No person shall play or practise golf, except in a reserve or a part of a reserve that has been set aside for that purpose.

25. Organised Events in Facilities and Reserves

- 25.1 No person may attend or take part in any organised event held in a facility or reserve, or in any part of a facility or reserve, whether a one-off event or a recurring event, unless the event is being held with the prior written permission of the Council.
- 25.2 A person may apply to the Council for permission to hold an organised event in a reserve or any part of a reserve.
- 25.3 Subject to the Reserves Act 1977, the Council may grant permission to hold an organised event on such conditions as the Council considers appropriate, and in doing so, may specify whether the person:
- (a) may charge an entry fee for the event;
 - (b) has the exclusive use of a reserve, or any part of a reserve, for the duration of the event.
- 25.4 Any person to whom the Council grants permission to hold an organised event, and any person who attends or takes part in any organised event, must comply with any conditions imposed by the Council in that written permission.
- 25.5 Where the Council specified as part of its permission to hold an organised event that any entry fee could be charged, or that the reserve, or any part of the reserve, could be used exclusively for the organised event, an authorised officer may require any person to leave a reserve, or any part of the reserve:
- (a) If the person is attending or taking part in the organised event without paying the required entry fee; or
 - (b) If the person is not attending or taking part in the organised event, but is in part of a reserve that has been set aside for exclusive use for an organised event.

26. Misbehaviour

- 26.1 Within the limits of any reserve no person shall willfully obstruct, disturb, annoy, or interfere with any person in the use or enjoyment of any reserve, or use any indecent, or offensive

language, or be intoxicated or under the influence of drugs, or noisy, or riotous, or disorderly, or do or practice anything likely to insult, offend, annoy or injure any person.

27. Western Bay of Plenty District Council General Bylaw

- 27.1 The provisions of Chapter 1 of the Western Bay of Plenty District Council General Bylaw 2008 and any bylaw passed in amendment or substitution are implied into and form part of this bylaw.

Schedule 1

Pursuant to clause 13 horses are permitted in the following areas subject to the conditions of access set out below:

(a) **Waihi Beach – Athenree Estuary** (see Map 1)

From the 2nd Thursday of February in each year to the 3rd Wednesday in December of the same year horses may be ridden on the signposted loop trail from Albacore Ave to Pio Road, across to Athenree Estuary and thereafter following the existing walkway/cycleway to exit via the mown firebreak adjacent to the houses at Island View.

Note: no horses may be ridden or led in the dunes anywhere.

(b) **Waihi Beach – Three Mile Creek** (see Map 2)

From the 2nd Thursday of February in each year to the 3rd Wednesday in December of the same year, horses may be ridden north along Waihi Beach from from Albacore Ave to the Three Mile Creek access.

Note: no horses may be ridden or lead in the dunes anywhere.

(c) **Tuapiro Point** (see Map 3)

Horse floats/trucks are permitted to be parked in the reserve area identified on the aerial map in order to allow access to the permitted horse riding area.

Starting from the end of Tuapiro Road, horses may be ridden northwards on the beach and within 20 metres from the vegetated edge of the reserve. The permitted riding area continues around the top of Tuapiro Point over to the western side where horses may be ridden southwards between the deep water channel and the edge of Tuapiro Point including the two inlet areas. The small island provides a turning point for horse riders to loop around as long as they remain within 20 metres from the vegetated edge of the small island.

Horses are not permitted any further south of the small island as this is where the kaimoana (shellfish) beds are predominately located.

A signposted loop trail is provided to guide where the permitted areas are.

(d) **Matahui Crossing** (see Map 4)

Horses may be ridden from Matahui Road across the traditional 'Matahui Crossing' to Matakana Island provided that any such approval to access private land on Matakana Island must first be sought and obtained from the land owners by the horse rider(s).

(e) **Pahoia Beach** (see Map 5)

With access via Pahoia Domain, horses may be ridden at low tide along Pahoia Beach.

(f) **Rogers Road** (see Map 6 and 7)

With access from Rogers Road, horses may be ridden on the north-west trail at low tide on the inter-tidal flats to the point where Pukehina Beach Road meets Pukehina Parade, looping back to exit at Rogers Road.

With access from Rogers Road, horses may be ridden on the south-east trail at low tide on the inter-tidal flats to Otamarakau, looping back to exit at Rogers Road.

Note: no horses may be ridden or led in the dunes anywhere.



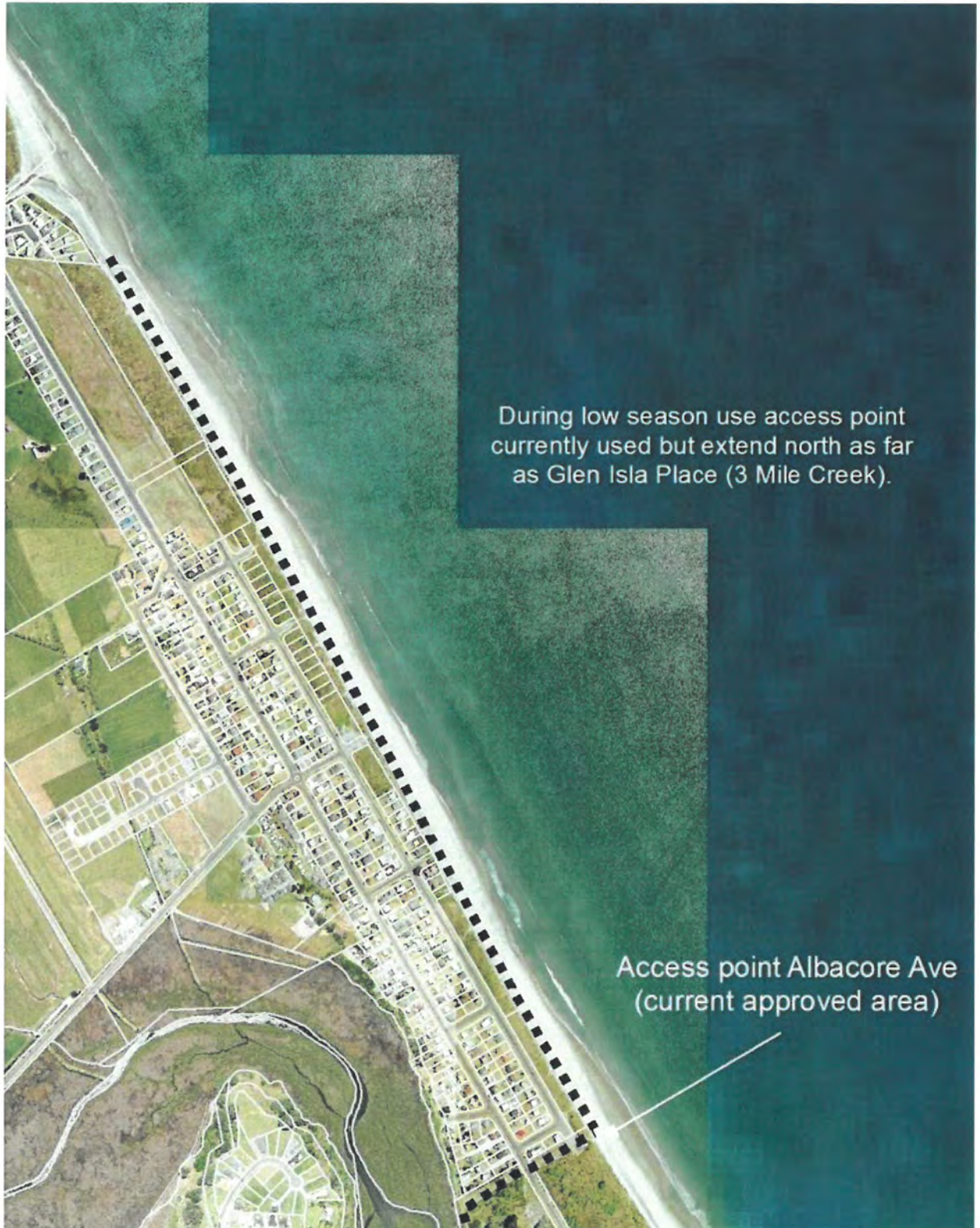
Schedule 1 – Aerial Maps

Waihi Beach – Athenree Estuary – Map 1





Waihi Beach – Three Mile Creek – Map 2





Tuapiro Point – Map 3





Matahui Road (Matahui Crossing) – Map 4





Pahoia Beach – Map 5





Rogers Road Beach 1 of 2 – Map 6





Rogers Road Beach 2 of 2 – Map 7

