



# **THE OPOTIKI DISTRICT COUNCIL BEACH BYLAW 2008**

## **EXPLANATORY NOTE**

The Opotiki District Council Beach Bylaw 2008 was made in accordance with the Local Government Act 2002. The purposes of the Opotiki District Council Beach Bylaw 2008 is to protect the beach environment, control activities that are likely to affect public safety, minimise nuisance on the beach whilst recognising that the beach is a recreational environment.

Nothing in this Bylaw shall derogate from the provisions of or the necessity for compliance with the Land Transport Act 1998 and any regulations made under that Act or any requirement imposed by the BOP Regional Council under its plans, rules and/or any Bylaws. The Bylaw is not intended to detract from, affect or override any ownership or customary rights.

## **CONTENTS**

1. Title
2. Commencement
3. Repeals
4. Interpretations
5. Rubbish
6. Aircraft
7. Control of Vehicles and Land Yachts
8. Control of Horses and Animals
9. Conduct
10. Changing areas
11. Reserves areas for particular activities
12. Surfboard and other objects
13. Lifesaving
14. Hire of craft
15. Offences and Breaches
16. Notices
17. Dispensing Powers
18. Serving of Orders and Notices
19. Penalties for Breach of Bylaws
20. Exclusions from application of this Bylaw
21. Schedule 1 – Vehicle Prohibited Areas
22. Schedule 2 – Vehicle Restricted Areas

# The Opotiki District Council

## Beach Bylaw 2008

This Bylaw is made in accordance with the Local Government Act 2002

1. Title

This Bylaw shall be known as "The Opotiki District Council Beach Bylaw 2008."

2. Commencement

This Bylaw shall come into force on the 1<sup>st</sup> day of July 2008.

3. Repeals

As from the date that this Bylaw comes into force the Opotiki District Council Bylaw 1990 Chapter 19 Beaches Bathing and Control shall be repealed.

4. Interpretations

For the purposes of this Bylaw the following Interpretations and definitions shall apply.

Interpretations

- **Act** – means the Local Government Act 2002
- **Approved** means approved by the Council or by any officer of the Council appointed or authorised for the purpose
- **Authorised Officer** means any person appointed by the Council to act on its behalf and with its authority and includes an agent of the Council
- **Bathing** includes water bathing and sunbathing
- **Beach** means the foreshore being an area covered and uncovered by the tide between mean high water springs and mean low water springs and any adjacent area which can reasonably be considered part of the beach environment including areas of sand, pebbles, shell, shingle, dune or coastal vegetation and to which the public has a right of access but does not include private property.
- **Council** means the Opotiki District Council
- **Chief Executive** means the Chief Executive of the Opotiki District Council or a person acting under a delegated authority on behalf of the Chief Executive.
- **Dune** – means and includes any hill, mound or ridge of sand or sediment, or any series of such, either bare or vegetated, landward of a coastal or river beach but does not include private property.
- **Emergency** has the same meaning as in section 4 of the Civil Defence Emergency Management Act 2002.

- **Livestock** includes any age or sex of any cattle, sheep, deer, donkey, hinny, mule, pig, goat, thar, alpacas, llama, bison or any other herd animal and any horse which is not ridden, led by its reins or harnesses to a vehicle.
- **Motorcycle** shall have the same meaning as defined in the Land Transport Act 1998 but shall include those vehicles commonly referred to as a "quadbike" for the purposes of this Bylaw.
- **Offence** includes any act or omission in relation to this Bylaw or any part thereof for which any person is liable to prosecution.
- **Prohibited** means no vehicles are allowed in particular areas except with the prior permission of Council or in the case of an emergency.
- **Sign** means a visual message or notice conveyed to the public and visible from a public place displayed to advertise, identify a product, business or service or to inform the public together with any frame, supporting device and any associated ancillary equipment. It includes but is not limited to a banner, flag, poster, billboard, free standing sign, windsock and blimp. A bunting that has symbols or messages on it shall also be considered a sign for the purposes of this Bylaw.
- **Vehicle** has the same meaning as in Section 2 of the Land Transport Act 1998.
- **Vehicle Prohibited Area:** means any area declared under clause 7.2.1 to be a Vehicle Prohibited Area and to which vehicles are not permitted.
- **Vehicle Restricted Area:** means any area declared under clause 7.3.1 a Vehicle Restricted Area and to which vehicles are restricted from entering at specified times.

## 5. Rubbish

5.1 A person shall not, on any part of the beach:

- (a) Break any bottle or deposit any matter likely to cause any nuisance, injury or danger to public health or safety;
- (b) Scale, clean or gut any fish or deposit any fish, or any portion of a fish or a carcass of any dead animal, or bird or any vegetable matter likely to cause an nuisance, injury or danger to public health or safety;
- (c) Leave any offensive matter in or on any vessel in the area of the beach, exposed or stored so as to cause a nuisance, injury or danger to public health or safety.

## 6. Aircraft

6.1 Except with the written permission of the Council or an authorised officer and in accordance with any required conditions, and provided all other applicable statutory requirements are complied with, a person shall not:

- (a) Land or attempt to land on the beach or water or take off or attempt to take off from the beach or water any aircraft, glider, hang-glider, balloon, parachute, or other contrivance for air flying or any seaplane or hovercraft, except in the case of an emergency.

## 7. Control of Vehicles and Land Yachts

- 7.1 The Council shall control which parts of the beach vehicles and land yachts will be restricted to or be prohibited from entering.

Schedule 1 attached details vehicle prohibited areas together with maps.

Schedule 2 attached details vehicles restricted areas together with maps.

For the purposes of this section a land yacht is designated a vehicle.

## 7.2 Vehicle Prohibited Areas

- 7.2.1 The Council may by publicly notified resolution declare any part of the beach to be a vehicle prohibited area.
- 7.2.2 Except with the prior permission of the Council or an authorized officer and in accordance with any conditions that may be required a person shall not take into or drive any vehicle in a vehicle prohibited area except in the case of an emergency.
- 7.2.3 Schedule One of this Bylaw identifies Vehicle Prohibited Areas.

## 7.3 Vehicle Restricted Areas

- 7.3.1 The Council may by publicly notified resolution declare any part of the beach to be a vehicle restricted area.
- 7.3.2 Except with the prior permission of the Council or an authorized officer and in accordance with any conditions that may be required a person shall not take into or drive any vehicle in a vehicle restricted area except in the case of an emergency.
- 7.3.3 Schedule Two of this Bylaw identifies Vehicle Restricted Areas.
- 7.3.4 The Council may specify times when vehicles may be permitted or restricted in a vehicle restricted area.

## 7.4 Vehicle Permitted Areas

- 7.4.1 The beaches within the Opotiki District covered by the application of this Bylaw except for any part of the beach set aside as a vehicle restricted or vehicle prohibited area, is a vehicle permitted area and the following conditions apply:
- (a) No vehicle shall be driven at a speed in excess of 15 km per hour and not be driven in a manner which is or might be dangerous or which is or might cause annoyance or inconvenience to any other person in reasonable proximity.
  - (b) Vehicles must enter and exit the beach from only Council approved designated entry and exit points.
  - (c) Vehicles must be driven only within the area between the tidal wash line at mean high water springs and mean low water springs.
  - (d) Vehicles must not be driven on the beach sand dune areas, or on any area set aside for coastal vegetation, rehabilitation or conservation.
- 7.5.1 No person shall leave any trailer other than on a portion of the beach designated by the Council for the parking of vehicles or trailers, or above the high water mark but not on the sand dune, coastal vegetation, rehabilitation or conservation areas and where the parked vehicle or trailer will not cause an inconvenience or safety hazard to beach users.
- 7.5.2 The following are permitted in vehicle prohibited areas and vehicle restricted areas provided they are in the course of carrying out their official duties or authorized contracted works.
- (a) Law enforcement officers,

- (b) Surf patrol, fire rescue, or emergency services personnel.
  - (c) Council officers, Bay of Plenty Regional Council officers, Department of Conservation personnel and vehicles used for any activity undertaken by the Opotiki District Council, Bay of Plenty Regional Council and Dept of Conservation or any contractors engaged by them for the purposes of carrying out their functions.
- 7.5.3 The requirements of section 7.4.1 apply to any authorized vehicles driven in a vehicle prohibited or vehicle restricted area.
- 7.5.4 Except with the prior permission of the Council or an authorized officer, and in accordance with any conditions that may be required a person shall not on any part of any beach:
- (a) Navigate any vessel in water over the beach at a speed or in a manner which is, or might be dangerous to the public, or which causes or is likely to cause a nuisance to any other person using the beach;
  - (b) Except in an emergency leave or cause to be left for more than 24 hours any vessel of any description;
  - (c) Use any authorized vehicle on the beach where in the opinion of the Council or an authorized officer a nuisance or danger is or may be created for other beach users.

## 8 Control of Horses and Animals

- 8.1 A person shall not:
- (a) Ride, drive, or lead a horse or other animal (excluding a dog) on any designated conservation area, coastal vegetation or rehabilitation area or on the sand dunes and being the owner or person in control of that animal, allow them to wander on any designated conservation area, coastal vegetation or rehabilitation area or on the sand dunes.
  - (b) That a rider and horse enter and exit the beach via Council approved and designated access ways.
  - (c) That the rider of the horse be in complete control of their mount at all times while on the beach.
  - (d) That horses shall not trot, canter, or gallop anywhere in proximity to other beach users on the beach.
  - (e) That one rider be in control of one horse at a time ie; the rider shall not lead another horse on the beach.
  - (f) Swim any horse on or from any part of a beach in close proximity to another person or persons bathing, swimming or enjoying other water recreation.
  - (g) Being the owner or person in control, allow any horse or animal to defecate unless that person removes the faeces immediately from that place and disposes of it in a sanitary manner.
  - (h) Bring any animal onto the beach where in the opinion of the Council or an authorized officer is a nuisance or danger or a nuisance or danger may be created for other users of the beach.
- 8.2 Where any horse or animal is found on any beach in contravention of clause 8.1 it may be seized and impounded by any person duly authorized by the Council.

## 9. Conduct

9.1 A person shall not, on any part or the beach:

- (a) Take part in any activity, which interferes or is likely to interfere with the safety, comfort or convenience of the public or creates or is likely to create a nuisance;
- (b) With intent to offend, use any indecent or offensive language or behave in any indecent offensive, improper, disorderly or noisy manner ;
- (c) Interfere with any harbour works or any other protection works for the control of or prevention of erosion;
- (d) Subject to any applicable Fire Control legislation or any Part of this Bylaw, light or leave any fire in a manner or condition which is or might be dangerous to any person or which causes or may cause a nuisance to any person

## 10. Changing Areas

10.1 A person shall not:

- (a) Play games in or loiter in any changing area;
- (b) Use any changing area except for dressing or undressing;
- (c) Where over the age of 8 years old, enter or use any place, room or building on any beach set aside for the use of the opposite sex, except for the purpose of rendering assistance in case of accident or emergency.

## 11 Reserved Areas For Particular Activities

- 11.1 The Council may by public notice and in accordance with any required conditions, including period of time, reserve any specified area for the use of surfboards.
- 11.2 Any reserved area referred to in clause 11.1 will be identified by notice boards which will be displayed in the area.
- 11.3 Where a surfboard area has been identified under clause 11.1 a person shall not use or allow or cause to be used any surfboard in any other part of the beach, except for the reserved area.
- 11.4 Nothing in this part of this Bylaw shall preclude any member of a surf life saving club, authorised by the Council to operate on the beach, from launching or landing any surf lifesaving craft for the purpose of training or rescue.
- 11.5 Notwithstanding the preceding clauses, the Council may, on application received, allow certain areas to be used for a particular activity or activities.

## 12. Surfboards and Other Objects

- 12.1 No person shall use any apparatus or thing, including a surfboard or any object which is being used as a surfboard, so as to create or is likely to create a danger or a nuisance to other users of the beach.

### 13. Lifesaving

13.1 The Council may authorise any Life Saving Club:

- (a) To provide and use on any beach, life saving equipment to the approved standards of Surf Life Saving New Zealand;
- (b) To use any such equipment provided by the Council; and
- (c) To erect, place or remove on any beach any danger notices, or signs requiring or prohibiting swimming within specified areas of the beach as is necessary.

13.2 A person shall not interfere with, remove, destroy or damage any lifebuoy or lifesaving apparatus erected, maintained, or otherwise authorised by the Council on any part of the beach to which this Part of the Bylaw applies.

13.3 A person shall not obstruct or hinder or interfere with the carrying out of any life saving operation or drill or with any persons engaged therein.

### 14 Hiring Of Craft

14.1 The Council may authorise, subject to any required conditions and fees, the use of any defined part of the beach for the hiring, storing, launching and recovery of particular types of waterborne craft made available for public hire, and may issue a licence to any person for the carrying out of one or more of those activities.

14.2 Any person who undertakes any of the activities referred to in subclause 14.1

- (a) outside of the area set apart from those purposes; or
  - (b) in any part of the area set apart for those purposes when he or she is not licensed so to do;
- commits an offence against this Bylaw.

### 15. Offences And Breaches

15.1 Any person commits a breach of this Bylaw who:

- (a) Does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided under this Bylaw;
- (b) Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by that person at the time and in the manner provided under this Bylaw;
- (c) Does not refrain from doing anything which under this Bylaw they are required to abstain from doing;
- (d) Knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this Bylaw;
- (e) Refuses or neglects to comply with any notice given to that person under this Bylaw;
- (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer under this Bylaw; or
- (g) Fails to comply with any notice or direction given under this Bylaw.

15.2 Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of an authorised officer, provide their full name and address.

15.3 Any person who in the opinion of the officer appointed by the Council commits a breach of any of the provisions of this Bylaw shall, upon request of the officer, immediately leave the area and may be prohibited from appearing in the area for such period as the officer deems fit; but shall nevertheless be liable also to be prosecuted for the said breach, and the failure to leave the beach shall constitute a further offence.

## 16 Notices.

16.1 The Council may give notice to any person in breach of this Bylaw to carry out any remedial action in Order to comply with the provisions of this Bylaw and every such notice shall state the time within Which the remedial action is to be carried out, and may be extended from time to time.

## 17 Dispensing Powers

17.1 Where in the opinion of the Council full compliance with the provisions of this Bylaw would needlessly or injuriously affect any person, or the course or operation of any business of, or bring loss or inconvenience to any person without any corresponding benefit to the community, the Council may, on the special application of that person, dispense with the full compliance with the provisions of this Bylaw; provided that any other terms or conditions (if any) that the Council may deem fit to impose shall be complied with by that person.

## 18 Serving of Orders and Notices

18.1 Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person for the purposes of this Bylaw, service may be effected by delivering it personally to the person or by sending it by registered post to that person's last known residential or business address.

18.2 If the person is absent from New Zealand the order, notice, or other document may be served on the person's agent in the manner referred to in 18.1.

18.3 Where an order or notice is sent by registered post, the order or notice shall be sent so as to arrive no later than the latest time on which such order or notice is required to be served.

## 19 Penalties for Breach of Bylaw

19.1 Every person who commits an offence against this Bylaw is liable to:

(a) The penalty set out in the Local Government Act 2002.

(b) Where another enactment specifies the penalty for a breach of the Bylaw, that other penalty.

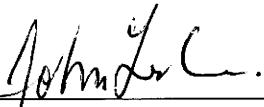
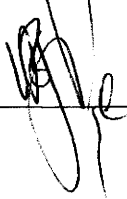
19.2 In accordance with the Local Government Act 2002 the Council may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

20 Exclusions from Application of this Bylaw

- 20.1 That the Bylaw does not apply to private land east of the Waiaua River Mouth unless requested by the lwi or landowner concerned. {Subject to review}

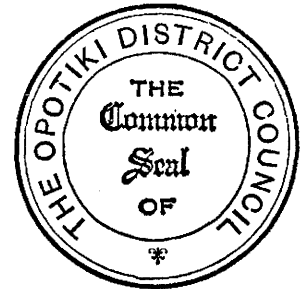
This Bylaw was duly made by the Opotiki District Council by a resolution passed on the 11th day of March 2008 and was confirmed following consideration of community submissions received during a special consultative procedure by a resolution { No 461 } passed on the 17th day of June 2008

The common Seal of the Opotiki District Council  
was here to affixed in the presence of

  
\_\_\_\_\_  
  
\_\_\_\_\_

Mayor

Chief Executive



**OPOTIKI DISTRICT COUNCIL BEACH BYLAW 2008**

**SCHEDULE ONE**

**VEHICLE PROHIBITED AREAS**

The following areas of beach are vehicle prohibited areas:

- 1 Any area of the Ohiwa Harbour below MHWS that is within the Opotiki District Council Boundary as shown on plan A attached; and
- 2 The mudflats of the Waiotahi river estuary as shown on plan B attached; and
- 3 The area of beach from the western side of Appleton Road to the Pou Whenua (carved poles) at Waiotahi Beach as shown on plan C attached; and
- 4 The area of Tirohanga beach that extends from the Waiorua Stream outlet into the sea from culvert no. 79 on State Highway 35 in an easterly direction to the Kelly's Beach entry/exit point as shown on plan D attached.

**OPOTIKI DISTRICT COUNCIL BEACH BYLAW 2008**

**SCHEDULE TWO**

**VEHICLE RESTRICTED AREAS**

The following areas of beach are Vehicle Restricted Areas during the times specified:

- 1 The area of beach that extends from the eastern property boundary at the Ohiwa Holiday Park in a westerly direction to the confluence of the Ohiwa Harbour outlet (as shown on Plan E attached). Vehicles are prohibited each year during the period 26 December to 31 January in the following year.

OPOTIKI DISTRICT COUNCIL BEACH BYLAW 2008  
SCHEDULE ONE - VEHICLE PROHIBITED AREAS

PLAN A



OHWA BEACH ROAD

**OPOTIKI DISTRICT COUNCIL BEACH BYLAW 2008  
SCHEDULE ONE - VEHICLE PROHIBITED AREA**

**PLAN B**

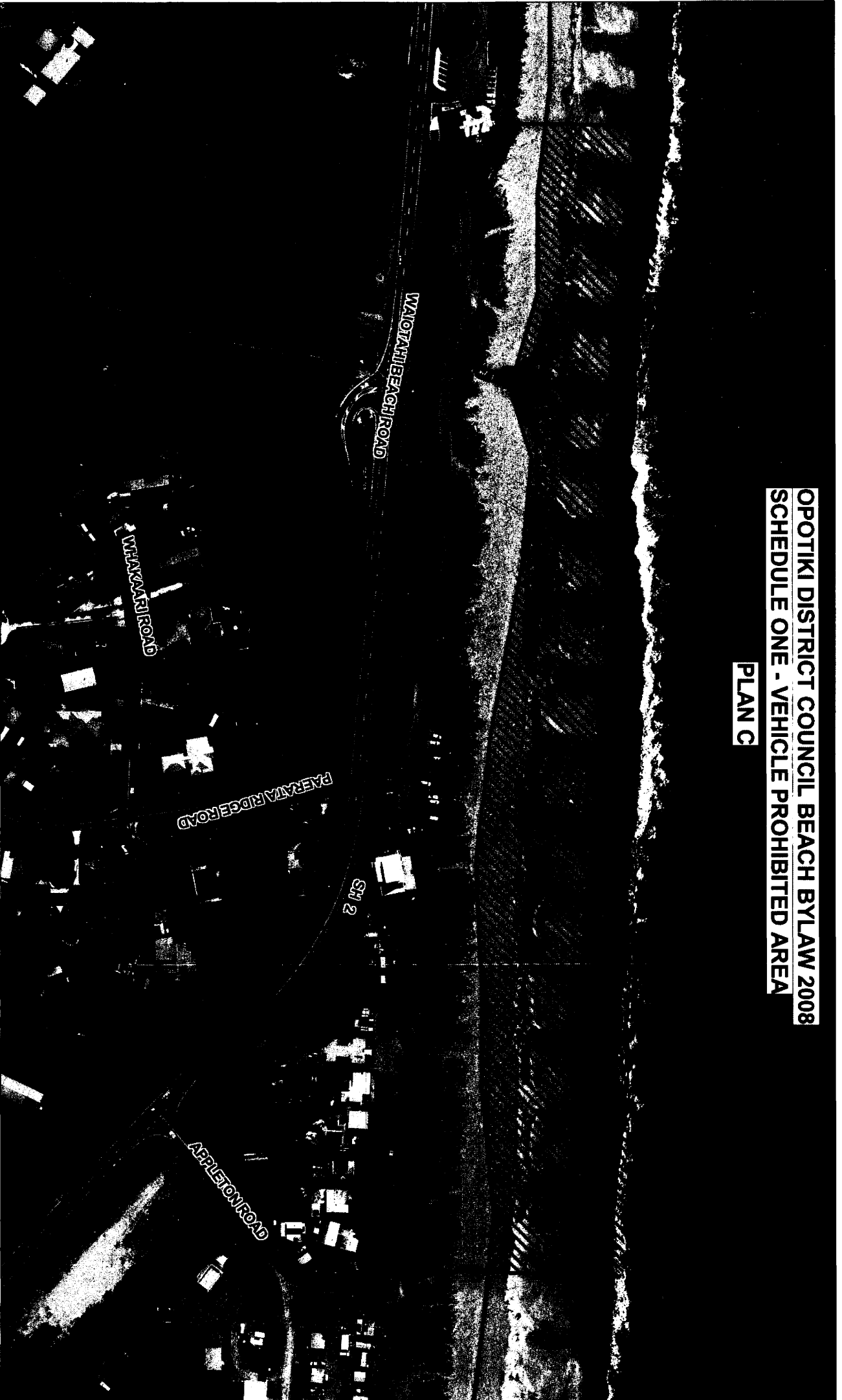
PARKINSONS ROAD

WAIOTAHU BEACH ROAD



**OPOTIKI DISTRICT COUNCIL BEACH BYLAW 2008  
SCHEDULE ONE - VEHICLE PROHIBITED AREA**

**PLAN C**



**OPOTIKI DISTRICT COUNCIL BEACH BYLAW 2008  
SCHEDULE ONE - VEHICLE PROHIBITED AREA**

**PLAN D**



OPOTIKI DISTRICT COUNCIL BEACH BYLAW 2008  
SCHEDULE TWO - VEHICLE RESTRICTED AREA

PLAN E

