

# DRAFT Public Places Bylaw

*INFORMATION PACK*

The Council has now adopted a Draft Public Places Bylaw for public consultation. This information pack is the Council's statement of proposal regarding the draft bylaw. The information pack contains:

- a. Statement of Proposal
- b. Proposed Draft Public Places Bylaw (showing amendments)
- c. Submission Form

## **Making a submission**

All persons interested in the *Proposed Draft Public Places Bylaw* may make submissions. The period for making written submissions will open on Friday 6 November 2015. Submissions can be sent to the Whakatāne District Council, Attention Sarah Stewart, Private Bag 1002, Whakatāne or emailed to [submissions@whakatane.govt.nz](mailto:submissions@whakatane.govt.nz). The Council must receive submissions not later than 5 pm on Monday 7 December 2015.

For a copy of the Information Pack, including the *Proposed Draft Public Places Bylaw*, please visit the Whakatāne District Council at the following places:

- Civic Centre, Commerce Street, Whakatāne;
- Civic Square, Murupara;
- The Council website at [www.whakatane.govt.nz](http://www.whakatane.govt.nz); and
- In each of the Libraries at:
  - Whakatāne – Te Kōputu a te whanga a Toi
  - Edgecumbe – College Road
  - Murupara – Service Centre
  - Ohope – Harbour Road

Or contact the Council's Customer Services on 07 3050600, Monday to Friday, 9am-5pm.

## **Hearing of submissions**

A hearing will be scheduled after the submission period to hear any submissions made. Please state in your submission whether or not you wish to be heard.

The Council will contact all submitters in writing to advise the confirmed time, date and venue of the meeting to hear submissions. Hearings on the bylaw will be open to the public.

The Whakatāne District Council is proposing to:

- i. Revoke Part 3 – Public Places of the Whakatāne District Council Consolidated Bylaw 2008; and
- ii. Adopt the *Proposed Draft Public Places Bylaw*.

## **1.0 BACKGROUND – WHAT IS A BYLAW?**

Bylaws are rules made by councils throughout New Zealand that affect the way we live, work and play in certain areas. They cover three general purposes – health and safety, offensive behaviour in public places, and protecting the public from nuisance. Councils have been making Bylaws for matters covered by these issues since the Bylaws Act 1910.

## **2.0 REASONS FOR THE PROPOSAL**

The Council is required by the Local Government Act 2002 (LGA 2002) to review Bylaws every 10 years. The Whakatāne District Council Consolidated Bylaw 2008 is up for review. In addition, Council has fully reviewed its approach to camping and overnight parking by self-contained vehicles. This revised approach is also contained in the Proposed Draft Public Places Bylaw.

This Statement of Proposal is necessary in order to meet the Council's obligations under the LGA 2002 to review its bylaw that is deemed significant in accordance with the Council's Engagement and Significance Policy. It sets out the review process for the Council's bylaw as it relates to public places within the Whakatāne District.

The review of the Public Places bylaw is significant in accordance with the Council's Engagement and Significance Policy and will require public consultation using the Special Consultative Procedure, as set out in the Local Government Act 2002.

Council wants to hear the views of the public and stakeholders in relation to this proposal. The special consultative procedure requires the preparation of this Statement of Proposal, its public notification inviting submissions from members of the public, and the hearing and consideration of submissions prior to any final decisions about the bylaw being made<sup>1</sup>.

## **3.0 DETERMINATION WHETHER THE BYLAW IS APPROPRIATE**

A bylaw has been determined to be the most appropriate mechanism to regulate public places in the Whakatāne District.

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<sup>1</sup> See section 158 and 83 of the LGA 2002.

The existing bylaw contained in Part 3 – Public Places has been reviewed and it is considered that the *Proposed Public Places Bylaw* is the most appropriate form of bylaw, and that the bylaw is consistent with the New Zealand Bill of Rights Act 1990.

#### 4.0 PUBLIC PLACES

Public places are used for a diverse range of activities by a diverse range of people. The Council encourages the use of public places by the community and by visitors to the community. It also endeavours to create and maintain public places and spaces for the public’s enjoyment.

Unregulated activities in public places can result in damage, public nuisance and can compromise public safety. The risk of unregulated public places impacting adversely on the safety of other users, the misuse or damage of public places as well as the potential for anti-social behaviour is high.

#### 5.0 OBJECTIVE OF BYLAW / OUTCOME SOUGHT

The objective of the bylaw is to regulate activities in public places to protect public health and safety, protect the public from nuisance and to minimise the potential for offensive behaviour in public places.

#### 6.0 RATIONALE FOR CHANGE

Many of the changes proposed in the bylaw are for reasons of clarity, to eliminate duplication with other parts of the consolidated bylaw and to delete any provisions that are out dated and/or no longer used by Council. Additional changes are proposed to reflect Council’s revised approach to camping and overnight camping by self-contained vehicles.

The table below provides a summary of proposed changes for relevant subsections.

Section	Description	Proposed amendment	Rationale for suggested change
3.1	Interpretation	Public place	Amend for clarity reasons and to delete the reference to roads that are not under the control of Council.
		New definitions for nohanga, reserve and self-contained vehicle	New definitions to provide clear interpretation of the new camping provisions added to bylaw.
3.2	Public safety and nuisance	Delete 3.2.1 (a) - (d)	Delete for reasons that they are already covered through health and safety legislation or are common sense and are not considered appropriate or necessary as provisions in a bylaw.
		Delete 3.2.1 (g)	This is covered by the Litter Act, which is frequently used by enforcement officers (along with the ability to issue infringement offences). It is therefore not necessary to include provisions in the bylaw.
	Refuse & offensive material	Delete 3.2.1 (g)	This is covered by the Litter Act, which is frequently used by enforcement officers (along with the ability to issue infringement offences). It is therefore not necessary to include provisions in the bylaw.

<b>3.3</b>	<b>Obstructing public places</b>	Delete (a) - (c), (e) & (j)	These provisions are considered 'common sense' and are unnecessary to include in a bylaw.
<b>3.4</b>	<b>Damage to public places</b>	Delete (a) - (c), & (h)	These provisions are considered 'common sense' and are unnecessary to include in a bylaw. Point (h) is covered in the Animal Control & Dog Control Bylaws.
<b>3.5</b>	<b>Placing of articles on and damage to public places</b>	Delete 3.5.1	These provisions are considered 'common sense' and are unnecessary to include in a bylaw.
<b>3.6</b>	<b>Exposing articles for sale</b>	Delete 3.6.1 and 3.6.2	Duplicates mobile trading bylaw.
<b>3.7</b>	<b>Parades and assembly</b>	Amend 3.7.1 for clarity	Subsections (a) - (c) are repetitive. Amendments aim to streamline these provisions.
<b>3.8</b>	<b>Posters and display Boards</b>		Reword 3.8.1 to 3.8.4 to be consistent with the District Plan and to increase clarity.
<b>X.X</b>	<b>Camping</b>	New Section inserted	Camping and overnight camping by self-contained vehicle provisions have been amended to align with process issues highlighted through case law. Recent case law created by the judicial review brought by the NZMCA and Thames-Coromandel District Council Freedom Camping Bylaw meant that the current provision in the bylaw relating to the public resolution of overnight parking sites (3.9.4) needed review. This has resulted in a full review of Council's approach to camping in public places. The proposed changes in the camping and overnight camping subsections align with the premise of the Freedom Camping Act 2011, that camping in self-contained vehicles is permitted unless they are prohibited or restricted through the bylaw. The proposed Bylaw continues to allow for camping in non self-contained vehicles and tents etc in Aniwheua Reserve. Other areas are prohibited (other than self-contained vehicles) due to health and safety and nuisance concerns.
<b>X.X</b>	<b>Overnight Camping by Self -Contained Vehicles in Public places</b>	New Section inserted	
<b>3.11</b>	<b>Fencing</b>	3.11.1 & 3.11.2 deleted and reworded with replacement provisions 3.11.3 & 3.11.4.	3.11.1 & 3.11.2 reworded to increase clarity (no change to content).
<b>3.12</b>	<b>Restrictions on use of barbed wire and electrified fencing</b>	3.12.1 – 3.12.4 are deleted and reworded with replacement provisions 3.12.5 – 3.12.7.	3.12.1 - 3.12.4 reworded to increase clarity (no change to content).
<b>3.15.5</b>	<b>Numbering of properties</b>	insert "may"	This better reflects current Council practice. Rural properties are provided numbers, which Council will install if needed, otherwise property owners have the option of installing themselves.

## 7.0 OPTIONS CONSIDERED

The following options have been identified to achieve the Outcome Sought:

1. Do nothing (retain current bylaw).
2. Separate the bylaw into public places and a freedom camping bylaw under the Freedom Camping Act 2011.

3. Public education
4. Adopt an amended bylaw (preferred option).

**Option 1 - Do nothing (retain current bylaw).**

Option 1 was determined not to be the most appropriate mechanism, as it would result in the Council retaining redundant, outdated and unlawful bylaw clauses.

**Option 2 - Separate the bylaw into public places and a freedom camping bylaw**

The *Proposed Public Places Bylaw* has additional sections on camping and overnight parking in public places. As discussed, the Public Places Bylaw needed review in light of recent case law. The option of separating the camping provisions from the public places bylaw was considered by the Policy Committee along with the making of a Freedom Camping Bylaw under the Freedom Camping Act 2011. The Policy Committee considered the public places bylaw was adequate for dealing with any camping / overnight camping issues.

**Option 3 – Public education**

When considering the costs of public health and safety, nuisance effects and property damage, alternative methods (such as non-regulatory measures) would not be considered as effective in achieving the objective of the bylaw. It is considered more appropriate to use both regulation and education in tandem to achieve the most effective outcome.

**Option 4 - Adopt an amended bylaw (preferred option)**

The Council has determined that adopting the reviewed bylaw is the most appropriate mechanism to regulate public places within the Whakatāne District.

With respect to public places, a regulatory approach is considered necessary. This is because of the potential range and nature of activities in public places across the Whakatāne District and their potential to impact adversely on public health and safety and to create nuisance if these activities are not closely monitored.

The Public Places Bylaw is consistent with section 145 of the Local Government Act 2002 that gives authority to territorial authorities to protect the public from nuisance, protect, promote and maintain public health and safety and minimise the potential for anti-social behaviour in public places under the control of the Council. It also allows territorial authorities to make bylaws to manage and regulate activities carried out in public places under the control of the Council and to protect public places from loss, damage and misuse.

Feedback on the current bylaw from internal and external stakeholders has highlight that many of the provisions are out dated, unnecessary and duplicate provisions in other parts of the consolidated bylaw. For this reason, a number of deletions and amendments are proposed to the current public places bylaw.

In addition, the camping /overnight camping by self-contained vehicle provisions in the *Proposed Public Places Bylaw* are consistent with the premise in the Freedom Camping Act 2011, which enables local authorities to manage freedom camping in local authority areas. This approach is also consistent with Kawerau and Ōpōtiki Districts, and is considered more proportionate to the issue. Pre-consultation with key stakeholders also indicated that this approach was an acceptable way forward.

## **8.0 FORM OF BYLAW**

The *Proposed Public Places Bylaw* has been assessed in accordance with the LGA 2002 and other relevant legislation, including the Bylaws Act 1910. It is considered that the proposed draft bylaw is the most appropriate form of bylaw for the purposes of public consultation<sup>2</sup>.

## **9.0 NEW ZEALAND BILL OF RIGHTS ACT 1990**

In addition to the requirements considered above, the proposed bylaw must be consistent with the New Zealand Bill of Rights Act 1990. No inconsistencies with the New Zealand Bill of Rights Act 1990 have been identified. The controls imposed are considered reasonable and justifiable in the circumstances as allowed for in section 5 of the New Zealand Bill of Rights Act 1990. On this basis, it is considered the proposed bylaw is consistent with the New Zealand Bill of Rights Act 1990.

## **10.0 COMMUNITY VIEWS**

Section 78 of the LGA 2002 requires the Council to consider community views in the course of reviewing its bylaw. Community views are therefore relevant to the preparation of bylaws and the consideration of whether a bylaw is the most appropriate way of addressing a problem.

The review process has sought comment from both internal and external stakeholders, including:

1. Whakatāne District Councillors.
2. Whakatāne District Council Enforcement Officers and other relevant staff members.
3. Interested groups and individuals, including motor camp owners and the New Zealand Motor Caravan Association.

The Councillors provided input and feedback on the direction of the bylaw and the matters considered. Council officers have provided feedback on the current bylaw and the appropriateness of the proposed draft bylaw.

The views of individuals and groups with an interest in the camping / overnight parking by self-contained vehicles were sought. Feedback received related predominantly to monitoring and enforcement concerns.

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<sup>2</sup> Some factors to consider when considering appropriate form: clarity, reasonableness, use of plain English, consistency with the general law of New Zealand Bill of Rights Act 1990, consistency with the Council's strategic and policy directions.

The views of the public will be sought further through the special consultative procedure.

## **11.0 INCONSISTENCIES WITH EXISTING POLICY AND PLANS**

The review process has identified that the *Proposed Public Places Bylaw* is consistent with the Council's Draft Long Term Plan<sup>3</sup>. The draft bylaw has not been identified as being inconsistent with any other plans or policies of the Council, including reserve management plans under the Reserves Management Act 1977.

## **12.0 CONSULTATION PRINCIPLES**

The principles of consultation require the Council to enable people in our community to participate in the decision making process. Consultation with everyone in the community will take place using the special consultative procedure.

## **13.0 CONCLUSION**

A bylaw has been determined to be the most appropriate mechanism to regulate activities in public places within the Whakatāne District.

The existing bylaw provisions contained in Part 3 – Public Places have been reviewed and the Council proposes to revoke the existing Part 3 – Public Places of the Consolidated Bylaw 2008.

It is considered that the *Proposed Draft Public Places Bylaw* is the most appropriate form of bylaw.

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<sup>3</sup> As required by section 80, Local Government Act, 2002.





PROPOSED DRAFT

# Part 3

*PUBLIC PLACES*

[www.whakatane.govt.nz](http://www.whakatane.govt.nz)



**PART 3**

**PROPOSED DRAFT PUBLIC PLACES**

*Date made: 25 July 2007*

*Commencement: 1 July 2008*

**EXPLANATORY NOTE**

Part 3 – Public Places was made pursuant to section 145 and section 146 of the Local Government Act 2002.

The purpose of Part 3 – Public Places is to protect the public from nuisances, to promote and maintain public health and safety and to minimise the potential for offensive behaviour in public places.

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PUBLIC PLACES

**3.1 INTERPRETATION**

3.1.1 **Public Place** means a place or any part of a place –

- (i) that is owned by or under the control of the Council under any enactment; and
- (ii) that is intended for use by the public open to, or being used by the public, whether or not there is a charge for admission (e.g. parks, reserves, footpaths, roads, grass berms, gardens, recreational grounds, sports grounds) but does not include any area or building used primarily for business or commercial purposes. ~~and~~
- (iii) ~~includes a road, whether or not the road is under the control of the Council; and~~
- (iv) ~~Any part of a public place.~~

In relation to any dog, has the same meaning as “public place” in section 2 of the Dog Control Act 1996.

3.1.2 **Camp or Camping** means the act of staying overnight (other than in a camping ground) in temporary accommodation using one or more of the following:

- (i) A tent or other temporary structure;
- (ii) A caravan; and
- (iii) A car, campervan, self-contained vehicle, housetruck or other motor vehicle.

3.1.3 **Nohoanga** means specific Māori ‘camping’ sites to support mahinga kai activities.

3.1.4 **Reserve** has the same meaning as in section 2(1) of the Reserves Act 1977.

3.1.5 **Self-contained vehicle** means a vehicle designed and built for the purpose of camping which has the capability of meeting the ablutionary and sanitary needs of the occupants (including potable water) for a minimum of three days without requiring any external services or discharging any waste and which complies with the New Zealand Standard 5465:2001.

**3.2 PUBLIC SAFETY AND NUISANCES**

3.2.1 Except with the prior permission of the Council or an authorised officer, and in accordance with any conditions that may be required, a person shall not:

- (a) ~~Leave any work, hole or excavation in or adjacent to a public place in a manner that could be a danger to anyone using that public place;~~

- ~~(b) — Leave any flammable materials or matter on any public place;~~
- ~~(c) — Omit when opening up any street to take all such precautions for guarding against injury to persons using the street as may be necessary or as may be directed by the Council or an authorised officer; —~~
- ~~(d) — Play any game or use any object including trolleys, kites or other projectile recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to persons in the public place or damage the public place;~~
- (e) Ride or use a skateboard, roller skates, roller blades, scooter or bicycle or similar device in such a way as to be dangerous or cause a nuisance or damage the public place;
- (f) Set off any fireworks or explosive material in or on any public place without the permission of the Council, or so near to any such public place as to endanger, annoy or frighten passers-by along such public place;

***Refuse and Offensive Material***

- ~~(g) — Place or leave in a public place litter or any other materials, thing or substance which are likely to be hazardous or injurious to any person, or likely to create a nuisance;~~
- (h) Deposit in or around a public litter receptacle any household, business or trade refuse;
- (i) Cause or allow any material or thing to be deposited or dropped onto a public place or road;
- (j) Fail to dispose of in a proper manner the body or part of the body of any animal in their possession into a public place or into any water body or onto any bank thereof;
- (k) Deposit, discharge or leave any offensive or dangerous matter or cause pollution of any river, stream, pond, lake, watercourse, or open drain;

***Soliciting, Advertising and Busking***

- (l) Solicit any subscription, collection or donation;
- (m) Create a public nuisance by preaching, lecturing, singing, busking, or playing a musical instrument;
- (n) Create a public nuisance by using any loud speaker or other broadcast system or similar device;
- (o) Distribute any printed or written material advertising any product, service or entertainment.

### 3.3 OBSTRUCTING PUBLIC PLACES

3.3.1 Except with the prior permission of the Council or an authorised officer, and in accordance with any conditions that may be required, a person shall not:

- ~~(a) Obstruct the entrances to or exits from a public place;~~
- ~~(b) Place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage;~~
- ~~(c) Pack or unpack any goods on any public place;~~
- (d) Carry out any work on any vehicle in or on any public place, except in the case of an accident or emergency when immediate repairs are necessary to allow the vehicle to be removed;
- ~~(e) Allow any gate or door on property abutting a public place to swing over or across the public place;~~
- (f) Loiter in or remain in or on any public place after being directed to move on by an authorised officer;

#### ***Parking on Grass Verge or Berms***

- (g) Stop, stand or park a vehicle on the grass verge or berm, flower bed or shrubbery laid out on any road or on land vested in or under the control of Council, or on a median strip or traffic island;
- (h) Park any machinery, equipment, materials or waste disposal bins on any road or public place;
- (i) Erect, place or use any stationery engine, concrete mixer, air compressor, crane, hoist or any other machinery in or on any public place;
- ~~(j) Carry or convey any thing, including any building, structure, timber or any other material on skids or trolleys, that may obstruct any person using any public place;~~
- (k) Drive or park any vehicle in a public place, except in an area that is specifically set aside for the driving and parking of vehicles;

#### ***Overhanging Vegetation***

- (l) No owner or occupier of land shall allow vegetation growing over any public place to overhang or encroach by their roots or branches on, above or across any public area so as to obstruct, interfere with, cause damage or injury to any person or traffic in that place.

- (m) At the discretion of an authorised officer, any vegetation referred to in clause 3.3.1 (l) may be partly or fully removed, or trimmed back to the property boundary.

### **3.4 DAMAGE TO PUBLIC PLACES**

3.4.1 Except with the prior permission of the Council or an authorised officer, and in accordance with any conditions that may be required, a person shall not:

- ~~(a) Blast or remove any rock, stone, earth, timber, or any other naturally occurring material found in a public place;~~
- ~~(b) Open any drain or sewer on, or disturb or remove the surface of, any public place;~~
- ~~(c) Damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub, or plant or any inscription or label relating to it;~~

#### ~~\_\_\_\_\_~~ **Graffiti**

- (d) Pollute, damage, deface or disfigure, apply graffiti, posters or advertising to, or interfere with any ornament, statute, building, structure or facilities or anything in or constructed on or standing on or abutting any public place;
- (e) Cause or permit to be done any act whatsoever which causes damage to any public place, or any work or thing in, on, over or under the public place;
- (f) Damage or interfere with any natural feature, animal or plant in or on any public place;
- (g) Use any vehicle in any manner so that it damages any part of a public place;
- ~~(h) Be in control of any animal so that it damages any part of a public place.~~

### ~~3.5 \_\_\_\_\_~~ **PLACING OF ARTICLES ON AND DAMAGE TO PUBLIC PLACES**

~~3.5.1 \_\_\_\_\_~~ No person shall place or leave or cause or permit to be placed or left any material or thing, including signage, amusement devices or items for sale or hire, on any public place unless:

- ~~(a) \_\_\_\_\_~~ The Council or an authorised officer has approved such action, in accordance with any such conditions as he or she may impose; or

~~(b) — Such action is taken for the purpose of regular refuse or other collections authorised by the Council; or~~

~~(c) — Such action is permitted by any other Part of this Bylaw.~~

### ~~3.5 — EXPOSING ARTICLES FOR SALE~~

~~3.6.1 — Except with the prior permission of the Council or an authorised officer and in accordance with any conditions that may be required, or in accordance with any other Part of this Bylaw, a person shall not on any public place:~~

~~(a) — Expose for sale any article whatsoever on any footpath, or outside any shop or other business premises, or doorway abutting on any public place, so as to encroach on to any public place, or hang or suspend any article over such public place.~~

~~(b) — Place any table, trestle, chair, seating, display stand, stall<sup>4</sup> or otherwise display, advertise or sell any goods or services.~~

~~(c) — Place or carry any placard, board, flag, screen, frame or other device by way of advertisement or any other sign, including any traffic sign.~~

~~3.6.2 — All applications for permission referred to in clause 3.6.1 shall be in writing and shall be subject to any fees as prescribed by the Council.~~

~~3.6.3 — No permit issued under clause 3.6.1 shall be transferable without the consent of the Council or an authorised officer.~~

~~3.6.4 — The Council may suspend or revoke any permit issued under clause 3.6.1 if any of the conditions of the permit are breached.~~

~~3.6.5 — No person shall expose to view or distribute or offer for sale in any public place, any handbill, print, or other document whatsoever of offensive or indecent character.~~

~~3.6.6 — The Council or an authorised officer may require the removal of any offensive or indecent material.~~

~~3.6.7 — The person(s) responsible for the placement of the offensive or indecent material shall be responsible for the cost of its removal.~~

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<sup>4</sup> This includes food stalls.

### 3.7 PARADES AND ASSEMBLY

3.7.1 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 public place:

(a) Organise or take part in any assembly (including parades or processions) or combine with other persons in such a way as to impede pedestrian or vehicular traffic to or along any public place or to any shops or premises facing onto any public place.

~~(b) Organise or attempt to organise any public meeting, gathering or demonstration or gather together a crowd, in such a way as to impede pedestrian or vehicular traffic access to or along any public place or to any shops or premises facing onto any public place;~~

~~(c) Hold, organise, or take part in any parade or procession whether in vehicles or on foot on or in any public place in such a way as to impede pedestrian or vehicular traffic access to or along any public place or to any shops or premises facing onto any public place.~~

3.7.2 The Written Permission referred to in clause 3.7.1 will not be unreasonably withheld. The Council will give reasons where permission is refused. Permission may be refused in circumstances where the Council reasonably believes the activity will or is likely to:

(a) Cause a public nuisance or;

(b) Endanger public health and safety (including traffic safety).

### 3.8 POSTERS AND DISPLAY BOARDS

3.8.1 The Council may erect or approve display boards in any public place for the purpose of allowing posters to be displayed announcing forthcoming events.

~~3.8.2 Posters displayed shall be removed from display boards as soon as is reasonably practicable after the event.~~

~~3.8.3 The person(s) responsible for ensuring compliance with clause 3.8.2 or for removing any poster displayed in a public place elsewhere than on a display board erected by the Council shall be the person who displayed the poster and also the organiser or person in charge of the function or event to which it relates.~~

~~3.8.4 Should any of the persons referred to in clause 3.8.3 fail to do so, any authorised officer of the Council may remove the poster and all expenses incurred by the Council in~~



~~connection with its removal shall be recoverable from those persons as the Council may determine.~~

- 3.8.5 Any poster must be removed within three days of the advertised event concluding. The poster must be removed by the person running the event, or their agent. Should that person not remove the poster(s), Council staff may remove them at the expense of the person or organisation running the event.

### 3.9 BUILDINGS AND STRUCTURES

3.9.1 Except with the prior permission of the Council or an authorised officer or where provided for in the District Plan or permitted by any other Part of this Bylaw, a person shall not:

- (a) Erect or place any structure on, over or under any public place;
- (b) Put any portico, projecting window, balcony, wall, lamp, doorstep, cellar door, signboard, window shutter, gate post, or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with the free passage of pedestrians or traffic upon on or in any public place;
- (c) Erect or maintain or cause to be erected or maintained any awning over any public place, or hang any awning, blind or screen from any portico on any public place;
- (d) Cause or allow the drippings from the eaves or other projections of any building or other structure to fall upon any public place;
- (e) Omit or neglect to secure and maintain the foundations of any building or any wall or fence, or cause or permit any encroachment by any building, wall, or fence abutting on any public place in a way that the public may be damaged or obstructed;
- (f) Mix concrete or carry out any other work upon any public place so as to deface or obstruct such public place;
- (g) Fail to keep in good repair any rail, gate, fence or cover over any area or entrance or lighting place to any cellar, or any other place opening into or on or over any public place, or keep open for more than a reasonable time for the taking in and out of articles, any entrance to any such area, cellar, or other place, or omit to protect such entrance when open for use;
- ~~(h) Use any dwelling or any vehicle for the purpose of temporary or permanent living accommodation on any portion of any public place, except in those areas designated and identified by official Council signs and with conditions that the Council may apply from time to time.~~

3.9.2 If any structure or any part thereof is erected, constructed or placed upon, under, over or across any public place, the Council may, by written notice, require the owner of such structure to remove the structure or part thereof.

3.9.3 The notice referred to in clause 3.9.2 may require such precautions to be taken as the Council determines necessary to ensure public safety.

## **X.X CAMPING**

x.x.x Except with the prior written consent of the Council or an authorised officer or where provided for in the District Plan or permitted by any other Part of this Bylaw, a person shall not:

(a) Camp in any public place unless it is designated as an approved site as set out in Schedule One or it meets the requirements set out in X.X (Overnight Camping by Self-Contained Vehicles in Public Places).

x.x.x When camping, all persons must adhere to any conditions or restrictions placed on the site(s).

3.9.4 ~~The Council may, from time to time, by a publicly notified resolution:~~

~~(a) designate approved sites for the overnight parking of vehicles for the purpose of temporary living accommodation within the Whakatane District; and~~

~~(b) erect official Council signage to identify those sites; and~~

~~(c) place conditions on the use of those designated sites.~~

## **X.X OVERNIGHT CAMPING BY SELF-CONTAINED VEHICLES IN PUBLIC PLACES**

**x.x.x *Public places where the overnight camping by self-contained vehicles is permitted***

The overnight camping by self-contained vehicles is permitted in any public place within the District unless it is restricted or prohibited in an area in accordance with this Bylaw.

**x.x.x *Prohibited areas as outlined in Schedule Two***

The overnight camping by a self-contained vehicle is prohibited in any area within the District, identified in Schedule Two: Prohibited Areas, without the prior written consent of the Council or an authorised officer.

**x.x.x** ***Restrictions on the overnight camping by self-contained vehicles as outlined in Schedule Three***

A self-contained vehicle may park overnight in any area identified in Schedule Three for the purpose of camping: Restricted Areas, pursuant to the specific restrictions listed for that area in Schedule Three.

**x.x.x** ***Prior consent from Council***

Written consent can be sought from the Council to waive or modify restrictions on a site which may be granted with or without conditions. A waiver must be applied for in writing to the Chief Executive Officer of the Council at least 20 days in advance of the date planned for camping in the area without restrictions applying.

**x.x.x** ***Relationship with the Ngāti Awa Settlement Act (2005), the Ngāti Tūwharetoa Settlement Act (2005), Central North Island Forest Land Collective Settlement Act (2008), Ngāti Manawa and Ngāti Whare Settlement Acts (2012), and the Tūhoe Claims Settlement Act (2014)***

This Bylaw does not limit or affect the rights in relation to nohoanga or other iwi entitlements under the Settlement Acts relating to iwi within the Whakatāne District, including the Ngāti Awa Settlement Act (2005), the Ngāti Tūwharetoa Settlement Act (2005), Central North Island Forest Land Collective Settlement Act (2008), Ngāti Manawa and Ngāti Whare Settlement Acts (2012), and the Tūhoe Claims Settlement Act (2014).

**3.10 BUILDING AND EXCAVATION WORK**

- 3.10.1 The prior written permission of the Council is required before any person carries out building work or excavations on or in a public place or where any public place may be interfered with or damaged as a result of the works.
- 3.10.2 No permit issued under clause 3.10.1 shall be transferable to any other person without the consent of the Council or an authorised officer.
- 3.10.3 If any building or excavation work is carried out on a public place, or adversely affects a public place, without the Council's prior written permission, the Council may remove or alter that work. The Council's costs may be recovered from the person who undertook the work, or the property owner for whom the work was being done.
- 3.10.4 In all cases where building or excavation work is being carried out, the applicant for the requisite consents shall also make any necessary application for the permit for the scaffolding, gantry, hoarding, or barricade to be erected in connection with such building, alterations, repairs or excavations.

3.10.5 The person(s) responsible for any works permitted under this Part of the Bylaw shall take all precautions for guarding against injury to passers-by as may be necessary, including the provision of adequate lighting where the danger remains during the hours of darkness, to the satisfaction of the Council or an authorised officer.

3.10.6 Nothing in this Part of the Bylaw relieves any person from responsibility for compliance with all of the provisions of this Part of the Bylaw, any other Part of the Bylaw, or any relevant or applicable legislation or regulation.

### 3.11 FENCING

~~3.11.1 The Council may give notice in writing to require the owner or occupier of any land which has no fence, wall or retaining wall, adjacent to a public place to erect a fence, wall or retaining wall if the Council considers that this is necessary for safety or other reasons relating to the use and administration of the public place.~~

~~3.11.2 Where any fence, wall or retaining wall abutting on a public place is in a condition or state of disrepair which in the opinion of the authorised officer could cause damage or injury to persons passing, the authorised officer may give notice in writing to require the owner or occupier to repair or remove such fence, wall or retaining wall, or make the land safe.~~

3.12.1 Where a hazard to public safety exists adjacent to a public place, the Council may give written notice to the owner or occupier of the hazardous land requiring them to construct a fence or a retaining wall to protect the public from that hazard.

3.12.2 Where an existing fence or retaining wall adjacent to a public place is in an unsafe condition, Council may require the owner or occupier to remove or make safe the structure.

### 3.12 RESTRICTIONS ON USE OF BARBED WIRE AND ELECTRIFIED FENCING

~~3.12.3 Except with the permission of the Council or an authorised officer, a person shall not erect, repair or permit to be erected or repaired any barbed wire along or within 1 metre of any boundary line between any land or building on the one side and any public place on the other side.~~

~~3.12.4 Clause 3.12.1 shall not prohibit the placing of barbed wire at a height of not less than 2 metres from the level of the ground of any such public place.~~

~~3.12.5 A person shall not erect, repair or permit to be erected or repaired any electrified fencing on a boundary adjoining any public place in any area zoned residential under the operative District Plan prepared by the Council.~~

~~3.12.6~~ ~~Clause 3.12.1, 3.12.2 and 3.12.3 shall not apply within any area zoned "rural" under the operative District Plan prepared by the Council, except when the fence abuts or adjoins the footpath.~~

3.12.7 Except with the permission of Council, no person shall erect any barbed or razor wire within one metre of the boundary of a public place unless it is 2 metres or higher above the ground level of the public place.

3.12.8 No person shall erect or repair any electrified fencing on a boundary adjoining a public place in any area zoned for residential activity or mixed use in the Whakatane District Plan. The owner or occupier of the land adjacent to the public place shall be responsible for complying with this bylaw.

3.12.9 Clauses 3.12.5 and 3.12.6 shall not apply within any area zoned "rural" in the operative Whakatane District Plan, except when the fence can be touched from a public footpath.

### **3.13 VEHICULAR CROSSINGS**

3.13.1 The prior written permission of the Council is required before any person constructs, repairs, removes, widens or narrows any vehicle access.

3.13.2 Before granting permission, the Council will consider what is reasonably necessary to:

- (a) Ensure the safe and convenient use of the road by pedestrians and vehicles; and
- (b) Protect the road (including any footpath or berm) adjacent to the vehicle access; and
- (c) Comply with any Council Policy or District Rule Plan in force at the time.

3.13.3 Following approval of the application and after the applicant has paid to the Council the fees required, the work shall be carried out by the applicant or their agent in accordance with the specifications and policy set by the Council and at the full cost of the applicant.

3.13.4 The authorised work shall be carried out as soon as reasonably practicable.

3.13.5 If in the opinion of the Council or an authorised officer, any vehicle crossing is in a bad or unsafe state of repair, the Council or an authorised officer may by written notice require the owner or occupier of the land which the crossing provides access to repair, reconstruct or renew such crossing to the satisfaction of the Council or an authorised officer, or to pay such sum of money as shall be necessary in the opinion of the authorised officer to repair, reconstruct, or renew such crossing.

3.13.6 Where a permanent vehicle crossing is not required, but access to a construction site or for any other purpose is required, a temporary vehicle crossing is necessary.

3.13.7 No person shall use any temporary vehicle crossing without first obtaining written permission from the Council, which shall be subject to such fees and conditions as considered necessary.

### **3.14 NAMING OF STREETS**

3.14.1 No person shall give any name to or affix, set up, or paint any name on any street, private street, or public place without the prior written permission of the Council.

3.14.2 The Council may cause to be painted or affixed on a conspicuous part of some house or building the name of the road, private road or public place to which it has frontage.

### **3.15 NUMBERING OF PROPERTIES AND BUILDINGS**

3.15.1 Notwithstanding that a building or property is identified by other means, the owner or occupier of every property or building shall mark such building or property with numbers not less than 50mm in height for residential buildings and not less than 150mm in height for all other buildings.

3.15.2 Numbers shall be allocated as approved by an authorised officer and displayed in a position so as to be readily visible from the road to which the building or property has frontage.

3.15.3 Numbers required by clause 3.15.1 shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.

3.15.4 The Council shall have power at any time to alter the number of any property or building where it may be in the Council's opinion necessary or advisable to do so.

3.15.5 In the case of rural properties the Council shall provide and may erect the numbers. The number standards approved by Council are:

Size of character: 80 mm on 110 mm backing plate

Colour of character: Reflective red

Colour of backing plate: Non-reflective white

3.15.6 Rural numbers shall be installed by an officer of the Council following the issue of a building consent or at the completion of a subdivision. The cost of this service is included in the consent application fee.

- 3.15.7 Notwithstanding the foregoing provisions, the Council may at any time affix or apply a number to any premises in such manner and position as it thinks fit.
- 3.15.8 Every person shall be guilty of an offence against this Bylaw who wilfully or maliciously destroys, pulls down, obliterates, or defaces the name of any street, or the number of any property or building, or paints, affixes or sets up any name of any street or any number to any building, contrary to the provisions of this Part of this Bylaw.

**SCHEDULE ONE: APPROVED AREAS FOR CAMPING**

<b>Area Name and Description</b>	<b>Specific restrictions</b>
Aniwhenua Reserve, Galatea (near Murupara township)	<ul style="list-style-type: none"><li>• Maximum 7 night stay in any 4 week period</li><li>• Littering and/or depositing of litter is prohibited. Refuse transfer station is available in Murupara – open Monday to Friday 7 am - 9 am and 3 pm - 5:30 pm; Saturday 10 am - 5:30 pm)</li><li>• Camping sites must be left in clean and tidy condition - please take all rubbish and refuse with you</li><li>• Campers must follow any direction(s) issued by an authorised officer</li></ul>

Refer relevant map.



**SCHEDULE TWO: PROHIBITED AREAS FOR SELF CONTAINED OVERNIGHT CAMPING**

Overnight camping is prohibited in local authority areas identified below.

Area Name / Description	Refer relevant maps
-------------------------	---------------------

**WHAKATĀNE**

Muriwai Drive  
 Kōhī Point Scenic Reserve

**ŌHOPE**

Mahy Reserve  
 Wharekura East Reserve  
 Ocean Beach Park, 243 Pohutukawa and Otao North Reserves  
 Goodwins Landing  
 Uretara East and West  
 Otao South Reserve  
 Ōhiwa Harbour Wharf carpark

**OTAKIRI**

Braemar Springs (Wairere-a-tu), Otakiri

**THORNTON / MATATĀ**

Western Coastal Recreation Reserve (excluding No.2 carpark)

*Muriwai Drive, Whakatane*

Muriwai Drive is located from The Strand at the eastern end of the Whakatāne CBD to the Whakatāne River entrance. There are various reserves along the length of Muriwai Drive from the Fishing Club to the road end that are popular and used for many different recreational activities, including the boat ramp, especially during the summer months.

To protect public health and safety, particularly in relation to road safety, and to protect against nuisances (including access issues for other recreational users), overnight camping is prohibited along the length of Muriwai Drive, including all reserves along the length of this road.

*Kōhī Point Scenic Reserve, Whakatane*

Kōhī Point Scenic Reserve is located at the road end of Kōhī Point Look Out Road between Whakatāne and Ōhope. This is a culturally significant site with a statutory acknowledgement as set out in the Ngāti Awa Claims Settlement Act 2005. It is also a reasonably narrow road with limited parking on the road's edge.

To protect cultural values and to protect access issues that may become a nuisance to other users, overnight camping is prohibited in all parts of Kōhī Point Scenic Reserve.

*Mahy Reserve, Ōhope*

Mahy Reserve is located on Pohutukawa Ave, Ōhope at the intersection of Pohutukawa Ave, West End Road and Ōhope Road. This is a popular beach side reserve and is used for a wide range of recreational uses, including community events, family picnics, children's play area and the Surf Lifesaving Club. The car park on this reserve is reasonably narrow with limited parking.

To protect health and safety (particularly road safety) and to protect against nuisance effects such as accessibility issues for other recreational users, overnight camping is prohibited in all parts of Mahy Reserve.

Wharekura East Reserve

Wharekura East Reserve is a small reserve with a car park at 177A Pohutukawa Ave, Ōhope located adjacent to the tennis courts and opposite Ōhope Beach School.

For road safety reasons and for accessibility reasons (restricting access to the beach, tennis court users and school users), overnight camping is prohibited in all parts of Wharekura East Reserve.

Ocean Beach Park, 243 Pohutukawa and Otao North Reserves

This is a long narrow stretch of road side reserve extending from the eastern boundary of Maraetōtara Reserve, Ōhope to the eastern end of Ocean Road, Ōhope.

To protect this sensitive coastal environment and to protect accessibility by other users, overnight camping is prohibited in all parts of these reserves.

Goodwins Landing

This is a small pull over area on the Ōhiwa Harbour margin that is used heavily for parking by landowners travelling by boat to Ohakana Island. It is located off Waterways Drive, Ōhope.

To protect against nuisance, specifically accessibility to parking for Ohakana Island residents, overnight camping is prohibited at Goodwins Landing.

Uretara East and West

Uretara East and West are reserve strips on the Ōhiwa Harbour Margin accessed by Harbour Road and Ōhiwa Parade, Ōhope. These reserves are planned to form part of the Ōhiwa Bay Walkway and overnight parking on these reserves would restrict access creating a public nuisance. Both these reserves are also sensitive coastal environments.

To ensure these reserves remain accessible, overnight camping on these sites is prohibited.

Otao South Reserve

Otao South Reserve is a reserve strip on Ōhiwa Harbour running along Harbour Road extending from approximately Liddon Grove to Anne Street. This reserve has a stormwater and flooding issue and therefore is not suitable for regular or heavy vehicle use.

Overnight camping is prohibited on the Otao South Reserve to protect the reserve and the amenity of the reserve. This is specifically to minimise nuisance effects resulting from vehicles causing rutting of the reserve that is prone to flooding issues as this is likely to impact on the accessibility and enjoyment of other recreational users.

Ōhiwa Harbour Wharf carpark

This is a car parking area in front of the Ōhiwa Harbour Wharf, a popular recreation area. As well as being a boat launching area and a recreational wharf, the sailing club and a popular restaurant is also situated here.

Overnight camping is prohibited in all areas of the Ōhiwa Harbour Wharf carpark for public road safety, and to protect against nuisances such as accessibility by other recreational users.

*Braemar Springs (Wairere-a-tu), Otakiri*

Braemar Springs is located on Braemar Road, Otakiri. Braemar Springs is a water supply facility. It is also a place of historic and cultural significance to Ngāti Tūwharetoa as identified in the Ngāti Tūwharetoa Claims Settlement Act 2005.

Overnight camping in this area would impede emergency access to the water supply facility and may compromise cultural values. For these reasons overnight parking is prohibited in all areas of Braemar Springs.

*Western Coastal Recreation Reserve (excluding No.2 carpark)*

The Western Coastal Recreation Reserve is a coastal strip running from Otamarakau to Golf Links Road and is approximately 30 km in length. This is a sensitive coastal environment identified in the Western Coastal Recreation Reserve Management Plan, made under the Reserve Management Act 1977. The areas along the coastal strip are small and there is reasonable recreational use of the reserves, particularly for fishing.

With the exception of No.2 car park, overnight camping is prohibited along the Western Coastal Recreation Reserve to protect from public nuisance, specifically accessibility issues, and to protect the sensitive coastal environment.

### **SCHEDULE THREE: RESTRICTED AREAS FOR SELF-CONTAINED OVERNIGHT CAMPING**

A person may camp in a local authority area identified below, only pursuant to the following restrictions and any further specific restrictions for that area.

1. Vehicles to camp only in the designated area.
2. Certified self-contained vehicles only.
3. Vehicles to camp for a maximum of two consecutive nights

Area Name and Description	Refer relevant maps
McAlister Street car park, Whakatane	
West End car park and Reserve	
Maraetōtara Reserve, Ohope	
Port Ōhope Reserve, Ōhope	

**McAlister Street Carpark, Whakatane**

McAlister Street car park is located in the Whakatāne township near the Whakatāne River and New World Supermarket, adjacent to the skate park and Ocean playground. Toilet facilities are available.

The designated area is in identified carparks only within the northern end of the car park. Refer to relevant map.

**West End Carpark and Reserve, Ohope**

West End car park and reserve is a popular summer spot located at 62 West End Road in Ōhope, the western most point of West End Road.

The designated area is the car park area behind the toilet facilities. Refer to relevant map.

**Maraetōtara Reserve, Ōhope**

Maraetōtara Reserve is a popular beachfront reserve located at 243 Pohutukawa Avenue, Ōhope (access opposite Maraetōtara Road). This is a large open space reserve with playground, car park, BBQ and toilet facilities.

The designated area is in identified carparks only within the car park area to the north-west of the round-about adjacent to the beach. Refer to relevant map.





**Port Ōhope Reserve, Ōhope**

Port Ōhope is a large reserve at 541 Harbour Road Ōhope, the eastern most point of Harbour Road. Port Ōhope Reserve is a popular harbour side reserve encompassing the boat ramp at the eastern end. Toilet facilities are available.

The designated area is at the south-west end of the reserve adjacent to the harbour's edge. Refer to relevant map.




**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area

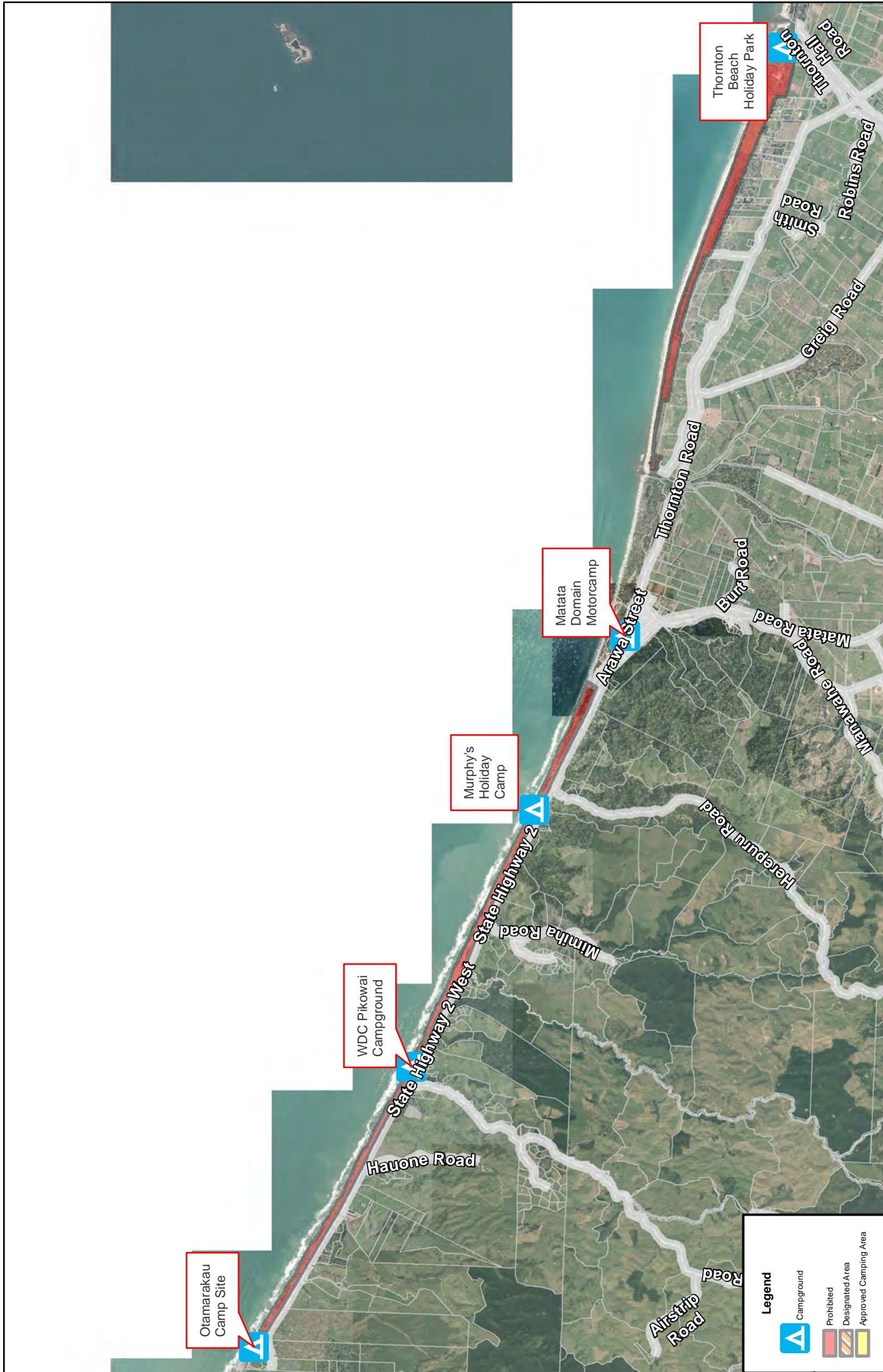
## Braemar Springs

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N 

Scale: 1:3,000

Author: SG



Otamarakau Camp Site

WDC Pikowai Campground

Murphy's Holiday Camp

Matata Domain Motorcamp

Thornton Beach Holiday Park

**Legend**

- Campground
- Prohibited
- Designated Area
- Approved Camping Area

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**Western Coastal Recreation Reserve**

Path: H:\Freedom\CampingA4.mxd  
 Scale: 1:85,000  
 Author: SG

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West End Road

Wills Glade





Ohope Road

Mair Street

Mair Street

Pohutukawa Avenue

**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area



**Mahy Reserve**

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Scale: 1:2,500

Author: SG



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Scale: 1:1,100  
 Author: SG

**Wharekura Reserve**  
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**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area





**Legend**

- Campground
- Prohibited
- Designated Area
- Approved Camping Area



**Ocean Beach Park**

Scale: 1:1,500  
 Author: SG





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Uretara  
East and  
West

**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area



**Goodwins Landing**



Path: H:\Freedom\CampingA4.mxd

Date of issue: 23/10/2015





Scale: 1:500

Author: SG

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**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area

Uretara  
East and  
West



**Otao South Reserve & Otao Domain**



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Scale: 1:4,200

Author: SG





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**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area



**Uretara East and West**



Path: H:\Freedom\CampingA4.mxd

Date of issue: 23/10/2015

Scale: 1:3,900

Author: SG

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Surf and Sand  
Conference Park

Charles Street

Harbour Road

**Legend**

- Campground
- Prohibited
- Designated Area
- Approved Camping Area



Ohiwa Harbour Warf Car Park







Scale: 1:1,300  
Author: SG

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**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area





### Kohi Point

Scale: 1:1,300  
Author: SG

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**Legend**

-  Campground
-  Prohibited Area
-  Designated Area
-  Approved Camping Area



**Muriwai Drive**



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Date of issue: 23/10/2015





Scale: 1:5,200  
Author: SG

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Black Road

**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area



**Aniwhenua Reserve**



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Scale: 1:2,500

Date of issue: 23/10/2015

Author: SG





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West End Road

**Legend**

-  Campground
-  Prohibited Area
-  Designated Area
-  Approved Camping Area

**West End Car Park**

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N

Scale: 1:650

Author: SG



**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area

Aerial Photography flown between 2011 and 2013, depending on the area. Parcel boundaries are to be taken as approximate only, not to be substituted for site specific survey. May contain LINZ data - Crown Copyright Reserved Note: Placenames may not conform to LINZ guidelines 2008. DISCLAIMER: While Whakatane District Council (WDC) has exercised all reasonable skill and care in controlling the contents of this information, WDC accepts no liability in contract, tort or otherwise howsoever, for any loss, damage, injury or expense (whether direct, indirect or consequential) arising out of the provision of this information or its use. Position of all assets & historical sites are approximate, actual positions are to be verified on site.

N 





Scale: 1:2,000

Author: SG

**Maraetotara Reserve**



**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area



**McAlister Street Car Park**

Path: H:\Freedom\CampingA4.mxd  
Date of issue: 23/10/2015





Scale: 1:700  
Author: SG

N

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**Legend**

-  Campground
-  Prohibited
-  Designated Area
-  Approved Camping Area



### Port Ohope Reserve

Scale: 1:1,600  
Author: SG

Aerial Photography flown between 2011 and 2013, depending on the area. Parcel boundaries are to be taken as approximate only, not to be substituted for site specific survey. May contain LINZ data: Crown Copyright Reserved Note: Placenames may not conform to LINZ guidelines 2008. DISCLAIMER: While Whakatane District Council (WDC) has exercised all reasonable skill and care in controlling the contents of this information, WDC accepts no liability in contract, tort or otherwise howsoever, for any loss, damage, injury or expense (whether direct, indirect or consequential) arising out of the provision of this information or its use. Position of all assets & historical sites are approximate, actual positions are to be verified on site.

Path: H:\Freedom\CampingA4.mxd

Date of issue: 23/10/2015