



## Clutha District Council

### Vehicles on Beaches Bylaw 2023

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## 1 INTRODUCTION

- 1.1 This Vehicles on Beaches Bylaw has been created to ensure public health and safety, protect the public from nuisance, and protect vulnerable wildlife and ecosystems, by regulating the use of vehicles on beaches in the Clutha District.

## 2 TITLE

- 2.1 This Bylaw is the Clutha District Council Vehicles on Beaches Bylaw 2023.

## 3 COMMENCEMENT, AND REVIEW

- 3.1 This Bylaw comes into force on 1 January 2023 and shall apply to the whole of the Clutha District.
- 3.2 This Bylaw is required to be reviewed no later than 5 years after the Bylaw was made and no more than 10 years after the Bylaw was last reviewed.

## 4 DEFINITIONS AND INTERPRETATIONS

In this Bylaw, unless the context requires otherwise, the following definitions apply:

- 4.1 **Act** means the Land Transport Act 1998.
- 4.2 **Beach** means the foreshore being any area covered and uncovered by the ebb and flow of the tide, and any adjacent area which can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation, but does not include any private property or land administered by the Department of Conservation.
- 4.3 **Council** means Clutha District Council or any Committee of the Council or officer delegated to exercise the authority of Council.
- 4.4 **Dune** means any natural hill, mound or ridge of sediment, or any series of such, landward of a coastal beach that is deposited by wind action or storm over wash or sediment deposited by artificial means, and serving the purpose of storm damage prevention or flood control, but does not include any private property or any land administered by the Department of Conservation.
- 4.5 **Enforcement Officer** means
- 4.5.1 any person appointed by Council under section 177 of the Local Government Act 2002 as an enforcement officer.
- 4.5.2 any person defined as an enforcement officer under section 2(1) of the Land Transport Act 1998.
- 4.6 **Safe Zone** means the areas described in Schedule 1 of this Bylaw.
- 4.7 **Vehicle** means any form of transport whatsoever which is equipped with wheels or revolving runners or tracks regardless of its means of motive power, and is not limited to cars, trucks, and motorbikes, but does not include:
- a) Bicycles

- b) Wind powered vehicles
- c) Prams
- d) Wheelbarrows
- e) Wheelchairs
- f) Mobility scooters used by persons with a physical or neurological condition.

- 4.8 Every Schedule to this Bylaw shall be deemed to form part of the Bylaw.
- 4.9 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be made, amended and revoked without formality.

## **5 VEHICLES ON BEACHES**

- 5.1 Any person operating any vehicle, on any part of the beach must show due consideration for other users of the beach and vulnerable wildlife.
- 5.2 Any person operating any vehicle on the beach, shall operate that vehicle in a courteous, appropriate, safe, and responsible manner, giving due consideration to other vehicle operators and to other users of the beach at all times.
- 5.3 Any person operating any vehicle on the beach shall not operate that vehicle in such a manner as to present a real or implied danger or threat to the wellbeing and safety of any other user of the beach at all times.
- 5.4 No person may use a vehicle to cause any damage to any part of a beach, including structures or fixtures.
- 5.5 No person may use a vehicle in a manner which has adverse effects on plants or native animals or their habitats.
- 5.6 *Advisory Note: The provisions of other Council bylaws also apply to all vehicles on beaches. This includes, but is not limited to, the Roading Bylaw 2018, the Freedom Camping Bylaw 2021, and the Regulatory Bylaw 2018.*
- 5.7 *Advisory Note: The Act defines a beach as a road and therefore all relevant traffic rules and regulations apply to any vehicles on beaches.*
- 5.8 *Advisory Note: The Marine Mammals Protection Regulations 1992 also apply to all vehicles on beaches.*
- 5.9 *Advisory Note: Speed limits on beaches in the Clutha District will be determined and included in Council's Speed Management Plan, which will be subject to a further public consultation process*

## **6 PROHIBITIONS**

- 6.1 Subject to lawful exemptions provided for elsewhere in this Bylaw:
- 6.1.1 All vehicles are prohibited on dunes at all times, except to access the beach via the most direct route possible, and only via existing, defined tracks.

- 6.1.2 No vehicle should be driven along a beach above the high-water mark except in the case of an emergency.
- 6.1.3 All vehicles are prohibited from any Safe Zone shown in Schedule 1.
- 6.1.4 Any Safe Zone is reserved for pedestrian beach users only.
- 6.2 *Advisory Note: Safe Zones may be created, deleted or amended by Council resolution following appropriate monitoring and consultation.*  
*Monitoring may include:*
  - 6.2.1 *Effectiveness of existing bylaw provisions*
  - 6.2.2 *Impacts of vehicles on human safety, wildlife and ecosystems.**Consultation would need to align with:*
  - 6.2.3 *Councils Consultation and Engagement Policy*
  - 6.2.4 *Sections 82 & 83 of the Local Government Act 2002.*

## **7 EXEMPTIONS**

- 7.1 Vehicles may access any beach located within a Safe Zone in the following situations:
  - 7.1.1 In the case of an emergency.
  - 7.1.2 Emergency vehicles, police vehicles, central government vehicles and Council vehicles.
  - 7.1.3 To launch or retrieve a boat, provided the vehicle follows the most direct route from the beach access point to a safe launching site.
  - 7.1.4 Where a property can only be accessed via the beach.
- 7.2 The Chief Executive Officer may issue an exemption from clause 6.1.3 of this Bylaw to any person who shall be subject to any conditions as deemed necessary or advisable. In granting any permission under this Bylaw, the Chief Executive Officer may impose such conditions as is deemed necessary or advisable on matters including, but not limited to the activities permitted, times, locations, erection of warnings or any other matter whatsoever.

## **8 OTHER RESTRICTIONS**

- 8.1 No person shall displace, or otherwise interfere with any fence, barrier, notice or other temporary or permanent structure or warning device provided by Council or by any Surf Life Saving Club without permission from Council.

## **9 OFFENCES, ENFORCEMENT AND PENALTIES**

- 9.1 Every person commits an offence against the Bylaw who:
  - 9.1.3 Commits a breach of this Bylaw.
  - 9.1.4 Omits, fails, or refuses to do anything required by this Bylaw.
- 9.2 Where an enforcement officer has reasonable grounds to believe a person has failed to comply with any provision of this Bylaw the person shall, on demand by

an enforcement officer, give his or her full name and full address.

- 9.3 Where an enforcement officer has reasonable grounds to believe a person has failed to comply with any provision of this Bylaw, the enforcement officer may direct the person to immediately leave the beach, and the person may be further prohibited by that officer from re-entering the beach for a period of 24 hours.
- 9.4 Where a person fails to comply with this Bylaw, the following penalties apply:
- 9.4.3 Breach of Bylaw made under LTA (infringement offence): \$150.
- 9.4.4 Breach of Bylaw made under LTA (ordinary offence): fine not exceeding \$1000.
- 9.5 Under section 242(4) of the Local Government Act 2002, a person who is convicted of an offence against a Bylaw is liable to a fine not exceeding \$20,000.
- 9.6 *Advisory Note: This Bylaw is one tool Council will use to manage vehicles on beaches. Other tools which may be used in conjunction with the Bylaw include education, signage, monitoring and reporting and collaboration with other agencies and groups such as iwi, DOC, conservation groups, the NZ Police and community groups.*

**SCHEDULE 1: SAFE ZONES**

No Safe Zones are included in this version of the Bylaw.

## APPENDIX A1.0 ADDITIONAL INFORMATION

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

### A1.1 History of Bylaw

Action	Description	Date of decision	Commencement
Make	Vehicles on Beaches Bylaw 2023	15 September 2022	1 January 2023

### A1.2 Related documents

Document	Description	Location
<i>Council Documents</i>		
Our Place Catlins Feedback Report	Feedback relates to issues associated with vehicles on beaches.	CDC website – Our Place Community Plans, May 2019 <a href="#">[link]</a>
Long Term Plan Decisions	Includes submissions to manage impact of vehicles on beaches, through Council’s 2021/31 LTP.	CDC website - Agendas and minutes, 20/5/2021 <a href="#">[link]</a>
Consultation and engagement strategy	Seeks approval to implement activities listed in the consultation and engagement strategy for sections of the Regulatory Bylaw, relating to vehicles on beaches.	CDC website - Agendas and minutes, 13/10/2021 <a href="#">[link]</a>
Issues and Options Report	Examines issues associated with vehicles on beaches and assesses options to manage any negative effects.	CDC website - Agendas and minutes, 12/5/2022 <a href="#">[link]</a>
Statement of Proposal	Statement of Proposal including draft Bylaw adoption for public consultation	CDC website - Agendas and minutes, 12/5/2022 <a href="#">[link]</a>
Hearings	Three verbal hearings for the 47 submitters who wished to be heard.	1. 23 June 2022 <a href="#">[link]</a> 2. 28 June 2022 <a href="#">[link]</a> 3. 29 June 2022 <a href="#">[link]</a>
Written and verbal submissions	Provides all written and verbal submissions.	CDC website – Agendas and minutes, 20 July 2022 <a href="#">[link]</a>
Vehicles on Beaches Bylaw – Feedback Report	Feedback Report summarising all submissions received.	CDC website – Agendas and minutes, 4/08/2022 <a href="#">[link]</a>
Making of Bylaw	Deliberations and decision to make final bylaw	CDC website - Agendas and minutes <a href="#">[link]</a>
<i>Legislation</i>		
Local Government Act 2002	Provides certain functions, duties, powers and penalties to make and enforce this bylaw.	www.legislation.govt.nz
Land Transport Act 1998	Provides certain functions, duties, powers and penalties to make and enforce this bylaw.	www.legislation.govt.nz
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws.	www.legislation.govt.nz
Interpretations Act 1999	Provides for certain matters related to the interpretation of bylaws.	www.legislation.govt.nz

### A1.3 Enforcement powers

Legislative provision	Description
Local Government Act 2002	<p><i>Section 239 Offences in respect of breaches of bylaws (other than alcohol bans)</i></p> <p>Every person commits an offence and is liable on conviction to the penalty set out in section 242(4) or (5) (as the case may be), who breaches a bylaw made under Part 8 (other than a bylaw made under section 147).</p> <p><i>Section 242 Penalties for offences</i></p> <p>(4) A person who is convicted of an offence against a bylaw made under Part 8 (other than a bylaw made under Part 8 referred to in subsection (5)) is liable to a fine not exceeding \$20,000.</p>
Land Transport Act 1998	<p><i>Part 9</i></p> <p>Allows enforcement officers, including members of Police, to enforce the provisions of the Local Government Act 1974, the Local Government Act 2002, the Road User Charges Act 2012, the Government Roothing Powers Act 1989, the Railways Act 2005, the Land Transport Management Act 2003, and the Land Transport Act 1998, and any regulations and rules and bylaws in force under any of those Acts.</p> <p><i>Section 128E</i></p> <p>Allows parking wardens to enforce any stationary vehicle offence or special vehicle lane; may remove or direct the driver to remove any vehicle if it is obstructing the road, or it is desirable to remove the vehicle in the interests of road safety or for the convenience or interests of the public.</p> <p><i>Section 139</i></p> <p>Allows enforcement officers and parking wardens to issue an infringement notice or proceed with a prosecution under the Criminal Procedures Act 2011.</p>

### A1.4 Offences and penalties

Bylaw Provision	Legislative provision	Description of offence	Maximum fine upon conviction	Infringement fee
Clause 9.4	Land Transport (Offences and Penalties) Regulations 1999	Failure to comply with the relevant provisions of a bylaw made under section 22AB	\$1,000	\$150
Clause 9.5	Local Government Act 2002	Breach of Bylaw	\$20,000	NA