

ISSUE FOURTEEN: OCCUPATION AND PUBLIC ACCESS

The issue to be addressed is the potential for existing and future uses of the coastal marine area to restrict or prevent public access along the coastal marine area, and the potential for occupation rights to exclude the establishment or continuation of alternative activities within the coastal marine area.

Objectives

- OBJ 14(a) To maintain and enhance public access within the coastal marine area.
- OBJ 14(b) To prevent conflict arising from multiple occupation rights over any single area of the coastal marine area.

Policies

- POL 14.1 *Public access along land of the Crown or land vested in the Taranaki Regional Council in the coastal marine area shall be maintained as far as is practicable in response to resource use or development. In this respect, any application for a coastal permit seeking rights of occupation shall include a consideration of alternatives to occupation rights and shall demonstrate how granting rights to occupy is the most appropriate course of action to take.*
- POL 14.2 *Where existing public access along land of the Crown or land vested in the Taranaki Regional Council is denied or restricted by use or development of the coastal marine area, acceptable alternative public access may be required to be provided or improved by that person whose activities are responsible for the denial or restriction of existing access.*
- POL 14.3 *Restrictions on public access along the coastal marine area should only be imposed where such a restriction is necessary for the purposes of:*
- (a) protecting areas of significant indigenous vegetation or significant habitats of indigenous fauna, or both;*
 - (b) protecting Maori cultural values;*
 - (c) protecting the health and safety of the public where these may be adversely affected by an activity in the coastal environment;*
 - (d) ensuring a level of security consistent with the purpose of a resource consent;*
 - (e) providing for defence purposes; or*
 - (f) in other exceptional circumstances sufficient to justify the restriction, notwithstanding the national importance of maintaining that access.*
- POL 14.4 *The matters in Policy 14.3 and in Section 229 of the Act shall be considered in determining the esplanade reserve or esplanade strip requirements in relation to any reclamation, along with a consideration of any loss of public access that has occurred as*

a result of the reclamation taking place.

POL 14.5 Provision shall be made, where appropriate and practicable, to improve the ability of the public to reach and use parts of the coastal marine area to which access is limited for any reason, provided that this is not inconsistent with Policy 14.3

POL 14.6 In circumstances when more than one set of occupation rights is requested for a part of the coastal marine area, measures will be adopted to ensure that occupation rights are compatible or that a priority order of rights is established.

Explanation

Maintenance and enhancement of public access along the coastal marine area is a matter of national importance, for which recognition and provision is required in this plan. Objective 14(a) is considered necessary to achieve that recognition and provision. It should be noted that the jurisdiction of this plan extends only as far as mean high water springs. Access to the coastal marine area is largely a district planning matter, except in relation to access structures (eg boatramps or steps on seawalls) that sit within the coastal marine area.

Policy 14.1 recognises that access rights to the coastal marine area are presently near-universal and are only likely to be restricted by resource use or development of a scale such that a coastal permit will be required. In such cases, as a priority existing access should be maintained where possible. In accordance with Policy 4.1.5 of the New Zealand Coastal Policy Statement, the Taranaki Regional Council requires an assessment to be made of alternatives to the grant of occupation rights when an application for occupation is made. Of note, Section 122(5) of the Act states: "Except to the extent that the coastal permit expressly provides otherwise, and that is reasonably necessary to achieve the purpose of the coastal permit, no coastal permit shall be regarded as:

- an authority for the holder to occupy a coastal marine area which is land of the Crown or land vested in a regional council to exclusion of all or any class of persons; or
- conferring on the holder the same rights in relation to the use and occupation of the area against those persons as if he or she were a tenant or licensee of the land.

Policy 14.2 states that alternative access may be required to be provided or improved by any person or group of people who are responsible for restricting or denying public access along the coastal marine area. The intention is that the existing access which is lost be replaced in the same area if possible. If that is not appropriate, another access way should be upgraded to compensate for lost access (either in the same area or in a different area). This policy is necessary in order to achieve the stated objective.

Policy 14.3 states the reasons for which public access along the coastal marine area may be restricted or denied. This policy is consistent with Policy one, Section 4.5.3 of the Regional Policy Statement for Taranaki and with Policy 3.5.1 of the New Zealand Coastal Policy Statement.

Policy 14.4 ensures that the requirements for an esplanade reserve or esplanade strip on a reclamation will be consistent with Policy 14.3 and the Regional Policy Statement for Taranaki. Any loss of public access that may have occurred will also be considered when determining esplanade reserve or esplanade strip requirements.

Policy 14.5 recognises that public access to parts of the coastal marine area, particularly public access for the purpose of launching ships (ie every description of boat or craft), may be appropriate but restricted by a lack of available structures for access. Provided that such access is not inconsistent with Policy 14.3, the Taranaki Regional Council considers that such access should be enhanced. This is consistent with the objective stated and Section 6(d) of the Act.

Policy 14.6 has been adopted because, in law, more than one coastal permit can be granted to give occupation rights to the same coastal space. The Taranaki Regional Council intends to avoid potential conflict by ensuring that the occupation rights will not conflict, or that a priority exists among rights.

Methods of implementation

The Taranaki Regional Council will use the following methods to implement the policies above:

METH **Decisions on coastal permits** to provide for the maintenance of existing access.

1 Restrictions may be applied to access in accordance with policy 14.3 and Section 4.0 of this plan.

METH **Application of conditions on coastal permits** to provide for alternative access

2 in situations where this is appropriate, by use of financial contributions under Section 6.0 of this plan.

METH **Advocacy**, in combination with the above methods, when appropriate, to improve public access to the coastal marine area where such improvement would give effect to Policies 14.3 and 14.5. In particular, the Taranaki Regional Council will consider acting as a facilitator to assist in agreement being reached in situations where there is public demand for the use of privately-owned access structures.

METH **Advocacy to district councils** for improvements in public access to and along the coastal marine area through provisions in district plans for **esplanade reserves and esplanade strips**.

METH **Provision of information**, on request, on public access within the coastal marine area and the location of access points (boatramps, wharves and access lanes) within the coastal marine area.

Reasons

Methods 1 and 2 have been adopted because the use of consent conditions to provide for the maintenance of existing access is simple, fair and efficient. Activities for which a consent is not required are unlikely to detrimentally affect public access. Section 122 of the Resource Management Act provides that a coastal permit may not be used for the exclusion of any or all classes of people from the coastal marine area except as explicitly provided for in the permit and as is reasonably necessary to exercise the permit.

Method 3 has been adopted in recognition that provision or enhancement of public access to the coastal marine area may, on occasion, be desirable where existing public access is

inadequate or is restricted by private development. On such occasions, the Taranaki Regional Council will meet with relevant agencies and groups in order to achieve a level of public access that is acceptable to all parties.

Method 4 recognises that provisions in district plans for esplanade reserves and esplanade strips can help maintain and enhance public access to and along the coastal marine area and meet the objectives of this plan.

Method 5 has been adopted to give effect to Policy 3.5.2 of the New Zealand Coastal Policy Statement. Rights of pedestrian access within the coastal marine area are presently near-universal (although physical access is impractical in many areas). Similarly, access within the coastal marine area is also near-universal. Restrictions exist on movement within Port Taranaki for safety reasons. Access to the coastal marine area is a different matter. Within the coastal marine area, access points consist of boatramps, wharves and access lanes. Locations of these are generally well-known.

Environmental results anticipated
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- ER 1 Maintenance and enhancement of public access along the coastal marine area, where this is practicable.
- ER 2 The achievement of single sets of occupation rights to any part of the coastal marine area, or compatible or priority-listed rights if more than one set of rights is allowed.