

## **Submission on Proposed East Coast Beach Vehicle By-law**

### **1 Introduction**

The proposed by-law bans motor vehicles on the “beach” with limited exceptions. The definition of a motor vehicle is taken from section 2(1) of the Land Transport Act 1998 (the Act).

Cycling walking and horse riding continue to be provided for in a footnote to Section 9 of the proposed by-law.

At the risk of being pedantic, the definition of a motor vehicle in the Act is trailing technology and can be deemed to be ambiguous. The definition need to be absolutely clear given the expected reaction from members of the public who have enjoyed vehicle access to East Coast beaches and the legal challenge to the recent new by-law on freedom camping. Fuzzy definitions will hamper achieving the intent of the by-law and make any enforcement even more difficult.

Taking this thought a further step also requires a clear definition of “cycling”.

### **2 The Submission**

2.1 The provisions of the by-law regarding motor vehicles is supported.

2.2 The provision of the by-law that allow cycling, walking and horse riding are essential.

2.3 The fines for breaches of the by-law have to be significant (\$750 plus) if the environmental values being protected are worth the cost of preparing and administering the by-law and the by-law is to be respected.

2.4 That definition of a motor vehicle for the purposes of the proposed East Coast by-laws is:

“A motor vehicle is a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved by one or more of an internal combustion engine, a gas engine or an electric motor.”

2.5 That definition of cycling for the purposes of the proposed East Coast by-laws is:

“Cycling is the use of a vehicle:

- with up to four wheels and
- usually carrying one or two people but up to six and
- powered and propelled solely by direct continuous and repetitive physical effort from the rider(s) with their arms and/or legs via on any combination of cranks, pulleys, chains or belts i.e. mechanical power or
- powered and propelled by an electric motor *plus* direct continuous and repetitive physical effort from the rider(s) with their arms and/or legs on any combination of cranks, pulleys, chains or belts.”

The key to defining cycling or biking for the purposes of the by-law is that to keep the vehicle moving requires continuous and repetitive physical effort by the rider(s) arms and legs applied to a mechanism.

Kevin Wilson  
03-579-2202 or 027-461-4941  
kandpwilson@xtra.co.nz  
Sept 2021

## Comments

### 1 Discussions on Definitions In the Act:

The act states:

- a motor vehicle is a vehicle propelled by mechanical power and,
- a vehicle means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved.

See Appendix One

The Chambers Twentieth Century Dictionary definitions include

- Vehicle: a structure in or on which persons or things are transported especially by land
- Mechanical power: the elementary forms or parts of machines.

The three primary mechanical powers are the lever, the inclined plane and a pulley.

The three secondary mechanical powers are the wheel/axle, the wedge and the screw.

Comments: In practical terms a vehicle can include a structure with one or more wheels, tracks, runners or some combination of one or more of the listed items.

Vehicles with wheels can have one or more wheels ranging from a uni-cycle to multi-wheel drive (some vehicles in the armed forces).

Examples of vehicles under the Chambers definition are listed in Appendix Two.

### 2 Mechanical power.

A vehicle can be drawn or propelled by one or more of:

- an internal combustion engine;
- an electric motor;
- a gas engine;
- by the wind;
- with assistance from physical input from a human (pedal assist e-bikes);
- solely by physical input from a rider's (s') arms and or legs applied to a mechanism of one or more levers, cranks, pulleys and wheels i.e. is propelled by mechanical power or
- by some combination(s) of the above.

So what is a 'cycle'?

### 3 Cycle

Cycle has several meanings mostly to do with a period in time when events happen in a certain repetitive order. Examples include the four seasons, alternating current and radio waves.

A cycle is also a vehicle:

- with up to four wheels and

- usually carrying one or two people but up to six and
- powered and propelled solely by direct continuous and repetitive physical effort from the rider(s) with their arms and/or legs on any combination of cranks, pulleys, chains or belts i.e. is propelled by mechanical power.

Such vehicles are commonly referred to as push bikes. They can be a uni-cycle, a bicycle, a tri-cycle, or a quad-cycle (bike).

#### **4 E-cycle (bike)**

Extending the definition of a cycle (bike) to include e-cycles might be as follows

An e-cycle is a vehicle:

- with up to four wheels and
- usually carrying one or two people but up to six and
- powered and propelled by an electric motor **plus** direct continuous and repetitive physical effort from the rider(s) with their arms and/or legs on any combination of cranks, pulleys, chains or belts i.e. has a combination of power sources applied to a mechanism which results in the vehicle moving carrying its passenger(s).

That is, the cycle (or bike) is push bike assisted by an electric motor. An electric scooter also can fit the above description for an e-bike.

Traditional motor cycle (bike) frames have been adapted and are now fitted with electric motors where the speed is controlled only by a throttle or switch. They are available as a commercial product.

Kiwi ingenuity is such that it is not hard to envisage a quad cycle (bike) with a powerful electric motor requiring minimal pedalling (or no pedalling) and able to travel at over 30km/hour! Witness the electric vehicles used by NZ Post for house to house urban mail deliveries.

Defining when an electric powered quad bike transitions to a larger and/or higher powered utility or sports/recreation vehicle is another challenge.

#### **5 Cycling**

The term 'cycling' has conventionally been applied to riding two wheeled push bikes but can equally be applied to a push bike with between one and four wheels and to the same vehicles that fit the definition of an e-bike. It is frequently also referred to as biking, a term that has also been applied to motor bikes.

***But the key to defining cycling or biking for the purposes of the by-law is that to keep the vehicle moving requires continuous and repetitive physical effort by the rider(s) arms and legs applied to a mechanism.***

## 6 A definition of cycling for the by-law

“Cycling is the use of a vehicle:

- with up to four wheels and
- usually carrying one or two people but up to six and
- powered and propelled solely by direct continuous and repetitive physical effort from the rider(s) with their arms and/or legs via on any combination of cranks, pulleys, chains or belts i.e. mechanical power or
- powered and propelled by an electric motor *plus* direct continuous and repetitive physical effort from the rider(s) with their arms and/or legs on any combination of cranks, pulleys, chains or belts”.

## 7 Sympathy

I have sympathy for vehicle owners who have responsibly used the inter-tidal sand zone to travel from Marfell’s beach to Cape Campbell for leisure and fishing.

It does require a more powerful (and usually four wheel drive) vehicle to travel over soft sand, shingle and pea gravel prevalent on and above much of the inter-tidal coast between the Awatere and Ure Rivers. Unfortunately not all owners of such vehicles are responsible when using either the inter-tidal sand, shingle, pea gravel or driving on similar surfaces above the intertidal zone.

Could not the inter-tidal sand zone to travel from Marfell’s beach to Cape Campbell be left open to low power (less than 300cc internal combustion engines?) vehicles weighing less than say 700kg?

A nice thought but having the required information at the time of making a judgement on the spot for enforcement is impractical. What is low powered if the vehicle is driven by an electric motor?

But if motor vehicles are to be banned from the ‘beach’ then a motor vehicle needs to be defined in the by-law along the lines of:

“a motor vehicle is a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved by one or more of an internal combustion engine, a gas engine or an electric motor”.

## 8 Fines

The proposed fines for breaches of the by-law are punitive and no deterrent. If the value from protecting the environment justify the cost of preparing and administering the by-law then fines for breaches of the by-law need to be significant or the whole exercise is a waste of time and resources.

Fines should start at \$750 and double for each repeat offence.

## **9 Final Comment**

The proposed by-law restricting vehicular access to the “beach” is a difficult and emotional topic for vehicle owners used to access. Defining a vehicle in simple terms so that enforcement is made less difficult is also a challenge.

A total ban is simplest with exceptions for emergencies but if “cycling” is to be allowed then cycling must also be clearly defined and not left to a wide interpretation.

Kevin Wilson  
03-579-2202 or 027-461-4941  
kandpwilson@xtra.co.nz  
Sept 2021

## Reprint as at 1 April 2021



# Land Transport Act 1998

Public Act 1998 No 110

Date of assent 8 December 1998

Commencement see section 1

## Part 1 Preliminary provisions

### 2 Interpretation

**motor vehicle—**

(a)

means a vehicle drawn or propelled by mechanical power; and

(b)

includes a trailer; but

(c)

does not include—

(i)

a vehicle running on rails; or

(ii)

*[Repealed]*

(iii)

a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or

(iv)

a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or

(v)

a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or

(vi)

a pedestrian-controlled machine; or

(vii)

a vehicle that the Agency has declared under [section 168A](#) is not a motor vehicle; or

(viii)

a mobility device

**motorcycle—**

(a)

means a motor vehicle running on 2 wheels, or not more than 3 wheels when fitted with a sidecar; and

(b)

includes a vehicle with motorcycle controls that is approved as a motorcycle by the Director; but

(c)

does not include a moped

**vehicle—**

(a)

means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and

(b)

includes a hovercraft, a skateboard, in-line skates, and roller skates; but

(c)

does not include—

(i)

a perambulator or pushchair:

(ii)

a shopping or sporting trundler not propelled by mechanical power:

(iii)

a wheelbarrow or hand-trolley:

(iv)

*[Repealed]*

(v)

a pedestrian-controlled lawnmower:

(vi)

a pedestrian-controlled agricultural machine not propelled by mechanical power:

(vii)

an article of furniture:

(viii)

a wheelchair not propelled by mechanical power:

(ix)

any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:

(x) any rail vehicle

Reference:

<https://www.legislation.govt.nz/act/public/1998/0110/latest/DLM433619.html>

## Appendix Two

### Examples of vehicles under the definition from the dictionary

#### 1 Tracked:

- 1.1 bull dozer
- 1.2 excavator
- 1.3 tractor
- 1.4 small self-propelled barrow

#### 2 More than four wheels

- 2.1 heavy truck
- 2.2 large passenger bus
- 2.3 trailer
- 2.4 tractor
- 2.5 excavators
- 2.6 mobile cranes

#### 3 Four wheeled

##### 3.1 Large

- 3.1.1 truck
- 3.1.2 passenger bus
- 3.1.3 tractor
- 3.1.4 trailer

##### 3.2 Medium

- 3.2.1 light truck,
- 3.2.2 tractor,
- 3.2.3 twenty seater buses
- 3.2.4 motor home
- 3.2.5 trailer

##### 3.3 Smaller

- 3.3.1 Ute
- 3.3.2 Van
- 3.3.3 Sport utility vehicles
- 3.3.4 Car
- 3.3.5 Four wheel motor bike
- 3.3.6 side by side
- 3.3.7 tractor
- 3.3.7 sport/leisure low to high performance dune buggy's or similar factory or home built vehicles
- 3.3.8 ride on mower
- 3.3.9 quad cycles
- 3.3.10 golf cart
- 3.3.11 Mobility scooters
- 3.3.12 skate boards
- 3.3.13 NZ Post electric powered mail delivery vehicles
- 3.3.14 super market trolley
- 3.3.15 prams and push chairs

#### 4.4 Three wheel

- 4.4.1 motor bikes

- 4.4.2 tricycles

- 4.4.3 land yachts

#### 4.5 Two Wheel

- 4.5.1 motor bikes

- 4.5.2 motor scooters/mope head

- 4.5.3 bicycles

- 4.5.4 scooters

- 4.5.5 sedgeways

- 4.5.6 hover boards

- 4.5.7 golf trundler

- 4.5.8 trailer

#### 4.6 One wheel

- 4.6.1 uni bikes

- 4.6.2 wheel barrow

#### 5.0 No wheels

- 5.1 hover craft

- 5.2 sledge