



Tauranga City Council

Beaches Bylaw 2007

Amended Clause 4 effective 1 March 2009,
Clause 13.2 effective 1 September 2010

This Bylaw is made under the Local Government Act 2002.

1. Scope and Purpose

- 1.1 The purpose of this Bylaw is to control activities that are likely to affect public safety, minimise nuisance on the beach, and ensure the uses of the beach are primarily for recreational purposes.
- 1.2 Every Schedule to this Bylaw and to the several Parts thereof shall be deemed to form part of this Bylaw.
- 1.3 Except as herein expressly provided this Bylaw shall apply to the whole of the City.
- 1.4 Words which refer to the singular include the plural and the plural includes the singular.

2. Interpretation

In this Bylaw:

ACT means the Local Government Act 2002.

APPROVED means approved by the Council or by any officer of the Council appointed or authorised for the purpose.

AUTHORISED OFFICER means any person appointed by the Council to act on its behalf and with its authority and includes an agent of Council.

BATHING includes swimming and sunbathing.

BEACH means any land in the Council's district adjacent to any seacoast or lakeside which is part of the foreshore, or is land contiguous to and used in connection with the foreshore, and to which the public has a right of access. For the purposes of this bylaw, the beach includes the foreshore which is the parts of the bed, shore or banks of tidal water between mean high water springs and mean low water springs.

COASTAL BEACH is any beach from, and including, Mauao, Mt Maunganui Main Beach to the Kaituna River.

COUNCIL means the Tauranga City Council.

CRAFT includes any ship, boat or other machine or vessel, including a kontiki device, used or able to be used by any person on, or in, the sea.

LICENCE includes a permit or other authority from the Council

MARAE COMMUNITY ZONE (either rural or urban) is as contained in the Operative Tauranga District Plan.

MOTORCYCLE shall have the same meaning as defined in the Transport Act 1962 but shall include those vehicles commonly referred to as “quadbike” for the purposes of this bylaw.

OFFENCE includes any act or omission in relation to this Bylaw or any Part thereof for which any person is liable to prosecution.

OWNER of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rent of such property, land, building, or premises, and where any such person is absent from New Zealand, shall include his attorney or agent, or any other person acting for him or on his behalf.

PERSON includes a corporation sole and also a body of persons, whether corporate or unincorporated.

QUADBIKE for the purposes of this bylaw shall include a three or four wheeled motorcycle and any trailer specifically designed to be towed by such a vehicle.

SIGN means a visual message or notice conveyed to the public and visible from a public place displayed to advertise, identify a product, business, or service, or to inform the public, together with any frame, supporting device and any associated ancillary equipment. It includes but is not limited to a banner, flag, poster, billboard, free standing sign, windsock and blimp. A bunting that has symbols or messages on it shall also be considered to be a sign.

STRUCTURE is any permanent or temporary works which are not part of the natural beach environment.

VEHICLE shall have the same meaning as defined in Section 2 of the Transport Act 1962 or subsequent amendments.

WHARF is a permanent or floating waterfront structure which is purpose designed for the berthing of marine vessels and includes every wharf, quay, jetty, pier, pontoon or other structure under the control of the Council from which passengers or goods may be taken on board or landed from any vessel or boat.

WRITING, WRITTEN or any term of like import means and includes words printed, painted, engraved, lithographed, or otherwise traced or copied, and where anything is required to be written it may be partly in writing and partly in printing.

Any word, phrase or expression which have meanings assigned to them by the Transport Act 1962, or any amendments thereof, shall have such meanings as are respectively assigned thereby, unless such meanings shall be repugnant to, or inconsistent with, the context in which such words, phrases or expressions, occur.

3. Vehicles on the Beach

- 3.1 No person shall on any part of the beach, except as allowed in Sections 3.2, 3.3 or 3.4:
- (1) Drive any land yacht, quadbike or other vehicle at a speed or in a manner which is or might be dangerous, or which causes or might cause inconvenience to any person on the area.
 - (2) Bring or ride any motorcycle thereon.
 - (3) Bring or drive any vehicle thereon except to launch a craft or remove it from the water 100 meters either side of a designated boat ramp. Dispensation may be granted under Clause 19 of this bylaw.
 - (4) Leave any trailer thereon other than boat trailers during launching or retrieving of boats only.
- 3.2 Craft may be moored, secured, anchored or left on the beach but Council may require them to be removed if they are deemed to be causing a safety or nuisance issue, or impacting on the wider public enjoyment of the beach.
- 3.3 Quadbikes may be driven on the beach with the permission of Council, and provided they use the vehicle access point between 105 and 107 Karewa Parade. Quadbikes may only be ridden on the beach from the Karewa Parade vehicle access point to the river mouth of the Kaituna River. Quadbikes must be driven to ensure the safety and consideration of others in the area and may not be driven on the sand dunes.
- 3.4 Vehicles may be driven on the beach for the purposes of setting up and running of events on the beach, but only if permitted by the Council and in accordance with that permission. Vehicles must be driven to ensure the safety of others in the area.
- 3.5 Nothing in this paragraph shall apply to any Police vehicle, fire appliance, ambulance, Government Service, Surf Life Saving or Council vehicles or other vehicle authorised by Council to drive on the beach.

4. Horses on the Beach (effective 1 March 2009)

- 4.1 No person may ride, drive or lead a horse on the following beaches as shown on the map in Schedule 1:
- Any beach at Mauao (the mountain)
 - The main Mt Maunganui beach from Moturiki Island (Leisure Island) to, and including, the base of Mauao
 - Any beach at Moturiki Island (Leisure Island)
 - Pilot Bay beach from the base of Mauao to Salisbury Wharf
 - Any beach within 100 meters directly in front of and adjoining any land at mean high water springs classified as Marae Community Zone (as identified in the Tauranga District Plan and shown on the maps in Schedule 2), unless the horse is at a walking pace.
- 4.2 Council may, by resolution, define further beaches where horses are prohibited.
- 4.3 Access by horses and their riders to those coastal beaches where horses are permitted, must be via a Council-controlled vehicle access or any other access designated for that purpose.

- 4.4 Any person in control of a horse on the beach must remove any faeces deposited by their horse and dispose of it in a hygienic manner.

5. Hiring of Craft

- 5.1 The Council may permit the use of any defined part of the beach for the hiring, storing, launching and recovery of particular types of waterborne craft made available for public hire, and may issue a licence to any person or persons for the carrying out of one or more of those activities.
- 5.2 Any such permission may include an administration fee and such conditions as may be desirable in the interests of the safety and convenience of the public, including that of bathers in particular.

6. Removal of Material

- 6.1 No person shall remove, for commercial, landscaping or building purposes, any stone, shingle, sand, boulders, silt, mud, shell or other material from any part of the beach or foreshore except pursuant to a licence issued by the Council or if otherwise authorised by law.

7. Protective Works

- 7.1 No person shall interfere with or remove any portion of any protective works, groynes or other structures erected on the beach or foreshore for the control of sand or shingle or for the prevention of erosion.

8. Lifesaving Equipment

- 8.1 No person shall interfere with or remove, destroy or damage any sign, navigation structure or aid, or any lifebuoy or lifesaving apparatus erected or maintained on the beach or on any wharf, jetty or landing place thereon.
- 8.2 No person may use a longline within 300 meters of any flagged, patrolled lifeguard area.

9. Structures

- 9.1 No person shall commence, make or construct any work, or place any pile or other structure whatsoever in, on, over, through or across the beach without first having obtained from the Council a licence, and the appropriate consent from Environment Bay of Plenty to do so. Nothing in this clause shall apply to structures made from natural materials found on the beach.
- 9.2 No person shall maintain or continue to use, or permit to remain on any part of the beach any structure without being the holder of a current licence.
- 9.3 Every applicant for a licence to erect a structure or to maintain an existing structure on the beach or to renew a previous licence shall with the application pay the processing fee and provide the information required.
- 9.4 Any licence may be cancelled for any breach of any relevant clause of this Bylaw.

- 9.5 The licence holder shall at all times keep the structure in good repair, appearance and condition and if necessary the Council may order the licence holder to undertake remedial works to its satisfaction.
- 9.6 No licence holder shall make charges for the use of a structure unless they are first approved by the Council or unless the licence is granted for commercial use.

10. Prohibition of Bathing

- 10.1 The Council may, for the purposes of public health and safety, prohibit bathing on any beach or any portion of the beach under its control.
- 10.2 The Council may, for this purpose, erect signs defining the limits within which bathing shall be confined.

11. Berths

- 11.1 No owner or person in charge of any vessel or boat shall, except in case of emergency, cause, or allow such vessel or boat to occupy a berth alongside any wharf or to lie off a wharf with a line or mooring attached thereto, unless such vessel or boat shall first have been licensed by the Council to occupy such berth. This section shall not apply to any wharf determined by Council to be a public wharf in accordance with section 11.2.
- 11.2 Council may, by resolution, determine any wharf, or part thereof to be a public wharf for the specific purpose of casual picking up and setting down of passengers from private vessels or boats. Permission is not specifically required to use these berths for these purposes.
- 11.3 Nothing in clause 11.2 and 11.3 shall override conditions relating to public access set under a resource consent.

12. Aircraft

- 12.1 No person shall (except in case of emergency) land or attempt to land on the beach, or become airborne or waterborne from the beach, or ride along the beach, any motorised aircraft, without the permission of Council. In all cases, the person must ensure that all other statutory requirements are also complied with.
- 12.2 Recreational non-motorised aircraft may land on, take off from and ride along the beach except when it is dangerous or might cause inconvenience to any person in the area. In all cases, the person must ensure that all other statutory requirements are also complied with

13. Fires (clause 13.2 effective from 1 September 2010)

- 13.1 Fires may be lit between 5am and 11pm. All fires must be below the high tide mark, be less than 1 meter in diameter and must be under supervision at all times. The person lighting the fire must ensure there is some form of extinguishment available and the fire must be extinguished with water before leaving it. All litter and dangerous debris must be removed.

- 13.2 Fires on the beach are not permitted during any period where fires are prohibited under Clause 3.1 of the Fire Prevention (Urban Fire District) Bylaw 2010 or subsequent amendments.

14. Offences and Breaches

Every person breaches this Bylaw and commits an offence who:

1. Does, or allows anything to be done, which is contrary to this Bylaw or any part of it or
2. Fails to do, or allows anything to remain undone, which ought to be done by that person within the time and in the manner required by this Bylaw or any part of it or
3. Does anything which this Bylaw prohibits; or
4. Fails to comply with any notice given to that person under this Bylaw or any part of it or any condition of a licence granted by the Council; or
5. Obstructs or hinders any Council officer or other Council appointed person in performing any duty or in exercising any power under this Bylaw.

15. Licences

- 15.1 The form of any application for and grant of any permission, licence or approval required under this Bylaw will be determined by the Council.
- 15.2 The Council may attach to any permission, approval or licence any terms or conditions as it thinks fit.
- 15.3 No application for a licence from the Council, and no payment of or receipt for any fee paid in connection with such application or licence, shall confer any right, authority or immunity on the person making such application or payment.
- 15.4 Suspending or Revoking Licences
- (a) The Council may revoke or suspend a licence granted under this Bylaw if it reasonably believes the licence holder:
 - i. has acted or is acting in breach of the licence; or
 - ii. is unfit in any way to hold such a licence.
 - (b) The Council may require the licence holder to attend a hearing to explain why the licence should not be revoked or suspended. The Council may revoke or suspend the licence at its discretion. if either;
 - i. the licence holder does not attend the hearing; or
 - ii. if after the hearing the Council is satisfied the licence holder has been in breach of the licence or is unfit to hold the licence.
 - (c) The Council may suspend any licence granted under this Bylaw for a period not exceeding 72 hours during the staging of any special event, by giving the licence holder 10 days notice in writing. The Council may suspend any such licence for the purposes of protecting the public from nuisance or for protecting, promoting or maintaining public health and safety.

16. Fees

The Council may in accordance with section 150 of the Local Government Act 2002 prescribe fees or charges payable for any certificate, licence, approval, permit or consent form or inspection made by the Council under this Bylaw.

17. Notices

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

18. Penalties

- 18.1 Subject to anything to the contrary, every person who commits an offence against this Bylaw shall be subject to the penalties set out in section 242(4) of the Local Government Act 2002.
- 18.2 Under section 163 of the Local Government Act 2002 the Council or an authorised agent appointed by it, may remove or alter any work or thing that is or has been constructed in breach of this Bylaw.
- 18.3 The Council may recover the costs of removing or altering the work or thing that is in breach of this Bylaw from the person who committed the breach. This does not relieve that person of liability for the breach.
- 18.4 Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for the grant of an injunction restraining a person from committing a breach of this Bylaw.
- 18.5 The Council may seize and impound property materially involved in the commission of an offence, under and in accordance with sections 164 and 165 of the Local Government Act 2002.
- 18.6 The Council will return and may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.

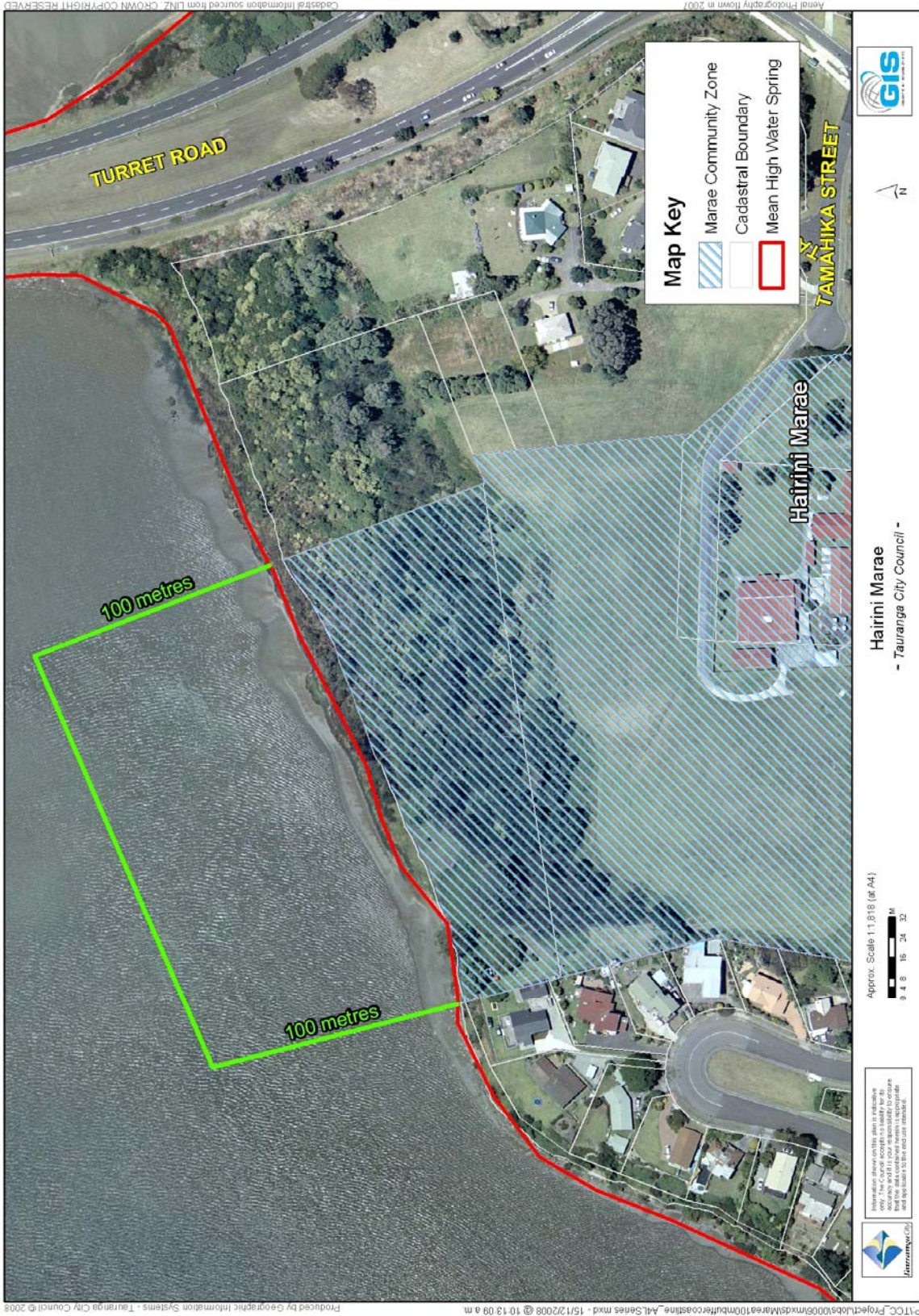
19. Dispensing Powers

The Council may waive full compliance with any provision of this Bylaw in a case where the Council is of the opinion that full compliance would needlessly cause harm, loss or inconvenience to any person or business without any corresponding benefit to the community. The Council may in its discretion impose conditions of any such waiver.

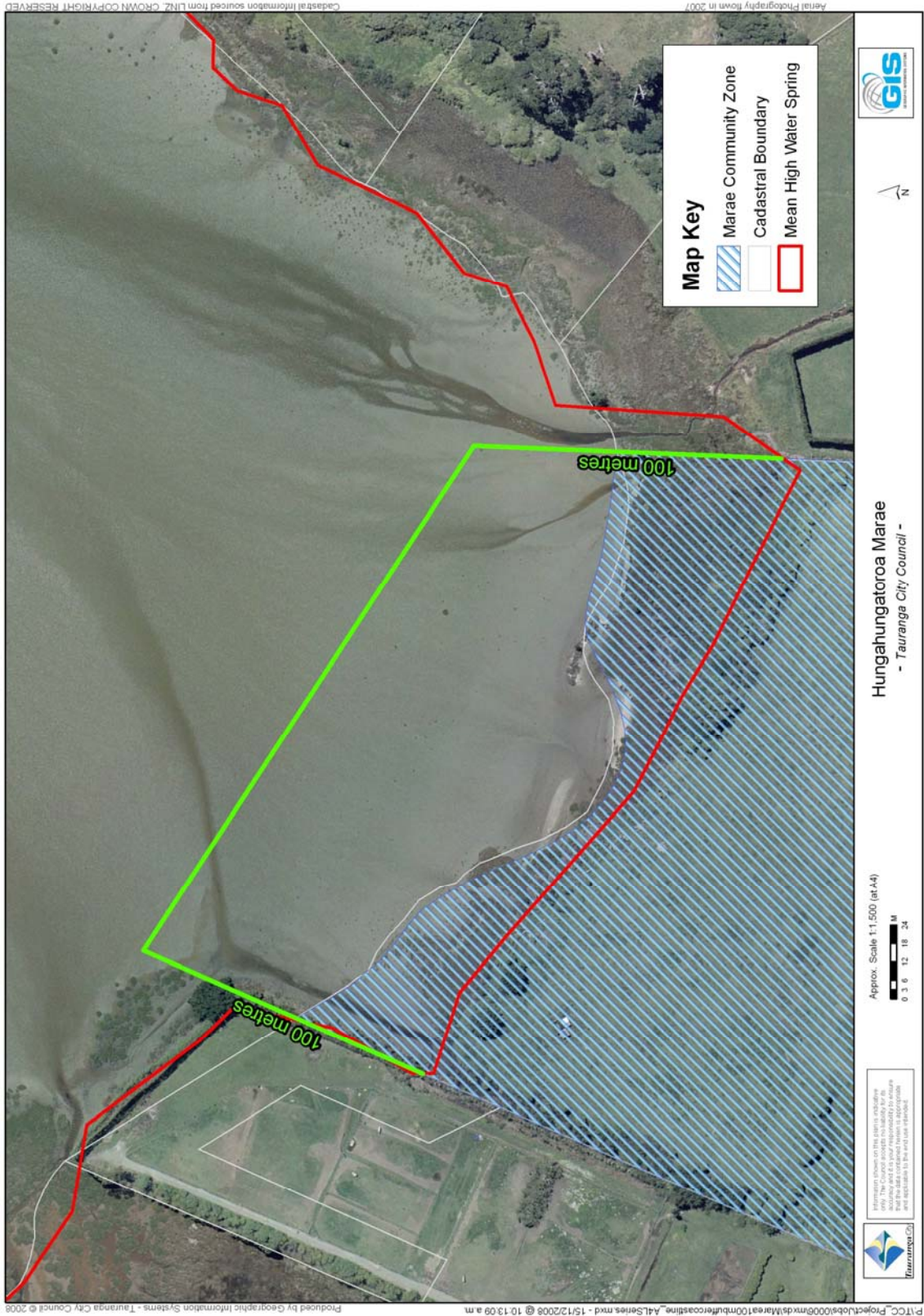
20. Commencement

This bylaw comes into force on 1 September 2007 and Clause 4 comes into force on 1 March 2009.

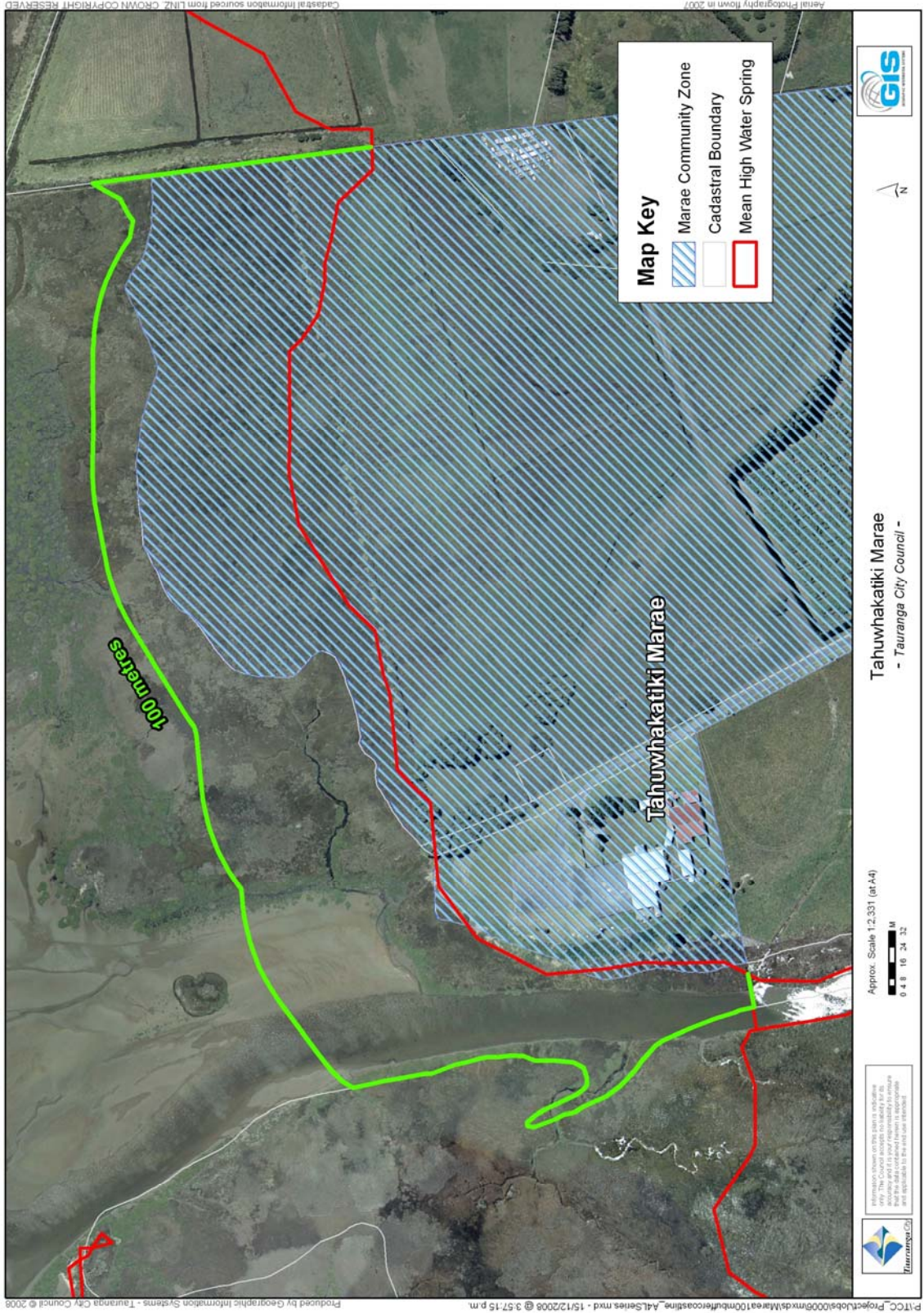
Schedule 2 – Marae Community Zones



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