

## **PA - Public Access**

The natural environment of Kaikōura provides a setting for a range of land and water based recreational activities including fishing, marine mammal encounters, walking, camping, diving, surfing, rafting, canoeing, tramping, hunting and climbing. The popularity of Kaikōura as a tourist destination has grown rapidly in recent years, as a result of the abundant marine life, in particular whales, dolphins and seals.

### **Ownership and Management**

There are three main statutes relating to the provision and management of public open space and recreation areas - the Resource Management Act, the Reserves Act 1977. and the Conservation Act 1987. The Resource Management Act gives Council responsibility for managing the land resources and the surface of the waterbodies.

To assist the Council in managing the coastline within the Kaikōura township, the Council has prepared a Coastal Management Strategy. This document provides a forward planning framework for the development of the coastal environment from the Whaleway Station to Point Kean and at South Bay from the Coastguard to the Caves Restaurant.

The Reserves Act covers management of land classified as scenic, recreation, nature, historic, scientific, government or local purpose reserve. This act is administered by both the Council and the Department of Conservation. The Council manages a range of reserves including recreation, esplanade and road reserves under the Reserves Act. The Department of Conservation manages a range of reserves, of varying sizes and in many locations throughout the district, for different conservation purposes.

The Conservation Act is administered by the Department of Conservation and applies to all land held by the Crown for conservation purposes, including conservation parks, wilderness areas, marginal strips and stewardship areas. The Department is required by the Conservation Act to manage the lands held under this Act for the purpose of preserving and protecting natural and historical resources, in order to maintain their intrinsic values, provide for their appreciation and recreational enjoyment by the public, and safeguard the options for future generations. Generally, the types of activities and consequently the effects within a reserve are those indicated by management plans under the above legislation. In the case of lands managed by the Department of Conservation, the Department has prepared a Conservation Management Strategy for the Nelson/Marlborough Conservancy. The Plan provides for activities in accordance with the provisions of this strategy. Activities that are undertaken on conservation lands other than in accordance with this strategy or that have adverse effects that extend beyond the boundaries of the reserve area are managed through the provisions of the Plan.

Key defined terms for this chapter	
Term	Definition
Access	<p>means that area of land over which a site or lot obtains legal vehicular and/or pedestrian access to a legal road. This land may include:</p> <ul style="list-style-type: none"> <li>— an access leg;</li> <li>— an access lot;</li> <li>— a private way;</li> <li>— common land as defined on a cross-lease or company-lease;</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>— common property as defined in Section 2 of the Unit Titles Act 1972.</li> </ul>
Esplanade reserve (RMA)	<p>Means a reserve within the meaning of the Reserves Act 1977—</p> <ul style="list-style-type: none"> <li>a. which is either— <ul style="list-style-type: none"> <li>i. a local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under section 239; or</li> <li>i. a reserve vested in the Crown or a regional council under section 237D; and</li> </ul> </li> </ul> <p>which is vested in the territorial authority, regional council, or the Crown for a purpose or purposes set out in section 229.</p>
Esplanade strip (RMA)	<p>Means a strip of land created by the registration of an instrument in accordance with section 232 for a purpose or purposes set out in section 229.</p>
Lake	<p>means any naturally occurring body of fresh water which is entirely or almost entirely surrounded by land.</p>
Public Area	<p>means those parts of a building normally available for use by the general public exclusive of any service or access areas of the building.</p>
Recreational Activity	<p>means the use of land and/or buildings for the primary purpose of recreation and/or entertainment which is not commercial and includes the sale of food and beverage for consumption on the site, provided it is ancillary to the recreational activity.</p>

	Recreational activities include sport clubs, art, craft and hobby clubs (i.e., painting, pottery, bridge, chess, photography clubs, and outdoor recreation pursuits) but excludes any recreational activity within the meaning of residential activity.
Reserve	means any land set apart for any public purpose; for full definition see the Reserves Act 1977.
River	has the same meaning as defined in Section 2 of the Resource Management Act 1991, which at the notification date of this Plan means:  <i>"a continually or intermittently flowing body of fresh water; and includes a stream and modified water course; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal) for the supply of water for electricity power generation, and farm drainage canal."</i>
Waterbody	means any lake, river or wetland as defined in this section of the plan and includes any other permanent or intermittent body of water including any stream, dam or pond.

Cross-references
<p>In addition to the zone chapters, several district-wide and overlay chapters also contain provisions that may be relevant to public access, including:</p> <p>CE - Coastal Environment</p> <p>SUB - Subdivision</p> <p>EW - Earthworks</p>

## Issues

PA-I1	<b>Access to <i>waterbodies</i> and the coast</b>
<p>Public access to and along the District's <i>rivers, lakes</i>, coastal areas and public lands can be enhanced or adversely affected as a result of activities such as subdivision or land use intensification.</p>	

## Objectives

<b>PA-O1</b>	<b>Provide for public access to <i>waterbodies</i> and the coast</b>
<p>To provide for public access to and along the District's <i>rivers, lakes</i>, coastal areas and public lands for the current and foreseeable recreational and leisure needs of residents and visitors to the District, where such access does not compromise normal farming activities or the cultural, natural conservation or hazard mitigation values of these areas.</p>	

## Policies

<b>PA-P1</b>	<b>Maintain and enhance public access to <i>waterbodies</i> and the coast</b>
<p>To maintain and enhance access to the District's <i>waterbodies</i> and coastal areas, where practicable, and where adverse effects of such access are avoided, remedied or mitigated, except where restrictions are necessary to:</p> <ol style="list-style-type: none"> <li>a. safeguard the conservation values</li> <li>b. protect the stability or performance of flood control and other essential structures</li> <li>c. avoid conflicts with activities of landowners or occupiers</li> <li>d. protect public safety.</li> </ol>	
<b>PA-P2</b>	<b>Establish practical access</b>
<p>To establish the most appropriate means of achieving long-term legal and practical access to <i>waterbodies</i> and coastal areas and assess priorities by consulting with appropriate interested parties, including landowners, the Regional Council, Te Runanga o Ngai Tahu, Department of Conservation, Fish and Game Council and recreational user groups.</p>	
<b>PA-P3</b>	<b>Enable public use of <i>waterbodies</i> and coastal margins</b>
<p>Where compatible with conservation values, to enable public use of the margins of <i>rivers</i> and <i>lakes</i> and the coastal areas of the District which have significant recreational values, through the taking of <i>esplanade reserves</i> and <i>strips</i> on subdivision and negotiations concerning the provision of access strips.</p>	
<b>ASW-P4</b>	<b>Avoid adverse effects on the coastal environment</b>

To avoid adverse effects of public access on the natural character of the coastal environment.	
<b>PA-P5</b>	<b>Regard given to Te Rūnanga o Ngāi Tahu</b>
When considering the setting aside of <i>esplanade</i> or <i>access strips</i> , or the vesting of <i>esplanade reserves</i> , to have regard to the needs of Te Runanga o Ngai Tahu to exercise kaitiakitanga and for <i>access</i> to <i>waahi tapu</i> or <i>mahinga kai</i> .	
<b>PA-P6</b>	<b>Recognise unformed access</b>
To recognise the role of existing unformed legal roads in providing <i>access</i> to <i>waterbodies</i> , public lands, and recreation areas.	

## Rules

Refer to esplanade rules in SUB - Subdivision chapter.
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## Standards

<b>PA-S1</b>	<b>Esplanades for public access</b>	
Refer to esplanade standards in SUB - Subdivision chapter.	Matters of discretion:	
	The effects of not meeting the standard.	
	Refer to Appendix 6: Assessment Matters for guidance on what matters may be relevant to consider for the proposed activity.	

## Methods Other Than Rules

<b>PA-M1</b>	<b>Methods relating to public access</b>
<ol style="list-style-type: none"> <li>1. Rules requiring the setting aside of <i>esplanade reserves</i>.</li> <li>2. The setting aside of <i>esplanade reserves</i>, <i>esplanade strips</i> and <i>access strips</i>.</li> </ol>	

3. The use of resource consent conditions to control activities that may have adverse effects on public access to and along, and public enjoyment of, the margins of *waterbodies* and coastal areas.
4. To develop a programme for identifying opportunities for public access provided by unformed legal roads in consultation with adjoining landowners and recreational users.
5. To consult with Te Runanga o Ngai Tahu regarding waahi tapu and waahi taonga which are of interest to Te Runanga o Ngai Tahu, and to use opportunities that may arise to negotiate improved access.
6. Through funding identified in the Council's annual planning process:
  - a. to identify, in consultation with appropriate parties of interest, priorities for public access to and along *waterbodies*, and to use any available opportunities to negotiate and promote such access, including identification and marking of unformed legal roads and setting aside of *esplanade reserves*, *esplanade strips* and access strips.
  - b. to encourage the Crown to ensure that secure provisions are made for public access to and along *waterbodies* whenever opportunities are available to these bodies.
7. Placing conditions on subdivision consents requiring the creation of access strips.
8. The requirement of financial and/or reserve contributions towards public access whenever subdivision or development occurs within the District.
9. Keeping publicly available records of the area and location of all *esplanade reserves*, *esplanade strips* and access strips in the District.

## Principal Reasons

PA-PR1	Public enjoyment of <i>waterbodies</i> and coastal areas
<p>The improvement of public access to <i>lakes</i>, <i>rivers</i> and coastal areas has the potential to enhance the public enjoyment levels of <i>recreational activities</i> in these areas. Access is presently available to the majority of <i>rivers</i> and <i>lakes</i> in the District from public roads, both formed and unformed.</p> <p>While private property owners within the District possess rights in terms of their land, the Resource Management recognises that "The maintenance and enhancement of public access to and along the coastal marine area, <i>lakes</i> and <i>rivers</i>" is a "matter of national importance" that the Council must recognise and provide for. Where public access to and along <i>waterbodies</i> is not already secured, the Council has the following options under the Resource Management Act:</p>	

- a. to set aside public *reserves*, either by requiring the creation of "*esplanade reserves*" upon subdivision, or by negotiating for their creation and subsequent acquisition.
- b. to create "*esplanade strips*", by the registration of an instrument over land which gives the public entry rights while ownership is unaffected.
- c. to negotiate "*access strips*" from existing roads or *reserves* to the margins of *waterbodies* or to an existing *esplanade reserve* or *strip*.

Where the margins of *rivers* are identified as having significant recreational values, it is appropriate for *esplanade reserves* or *esplanade strips* to be taken at the time of subdivision. The Council wishes to ensure over time that public access is available to *waterbodies* with important recreational and conservation values. The Council will continue to identify opportunities to negotiate and promote public access to and along *waterbodies*. Council is also aware that such public access can compromise land use activities in these areas and will where possible ensure a minimum of disruption to these activities by way of conditions on any legal access arrangements over private land.

## Anticipated Environmental Results

PA-A1	Anticipated environmental results of public access
	<ol style="list-style-type: none"> <li>1. Gradual evolution of public access to the District's major <i>rivers</i> where there are significant conservation or recreational values, while recognising rights of private property owners.</li> <li>2. Protection of the cultural values and habitat values of Lakes Rotorua and Rotoiti.</li> <li>3. Minimal interference with existing land use activities alongside <i>rivers</i> and <i>lakes</i> where <i>esplanade reserves</i>, <i>esplanade strips</i> or <i>access strips</i> are created.</li> <li>4. The incorporation of the values and opinions of Te Rūnanga o Ngāi Tahu, and their concerns relating to <i>recreational</i> and water-based <i>activities</i> in the District.</li> <li>5. The creation of <i>esplanade reserves</i>.</li> <li>6. Implementation of the policies and methods in a manner that will result in the maintenance of the ecological, conservation, recreation, and landscape values of these open spaces.</li> </ol>