



**Ōpōtiki District Council**  
STRONG COMMUNITY STRONG FUTURE

# **Ōpōtiki District Council**

## **CONSOLIDATED BYLAWS 2020**

Adopted at an Ordinary Council meeting on 25 August 2020

**Contents**

- Part 1. Introduction .....2
- 1.1 Title.....2
- 1.2 Purpose.....2
- 1.3 Commencement.....2
- 1.4 Revocation.....2
- 1.5 Definitions .....2
- 1.6 Explanatory notes .....22
- 1.7 Fees .....22
- 1.8 Licences, permits, consents and approvals .....22
- 1.9 Dispensing powers.....23
- 1.10 Serving of orders and notices.....23
- 1.11 Offences and breaches.....24
- 1.12 Penalties for breach of bylaw .....24
- 1.13 Removal of works .....24
- 1.14 Compliance .....25
- Part 2. Amenity .....26
- 2.1 Title.....26
- 2.2 Purpose.....26
- 2.3 Definitions .....26
- 2.4 Assessment of amenity .....26
- 2.5 Property maintenance .....26
- Part 3. Public Places .....27
- 3.1 Title.....27
- 3.2 Purpose.....27
- 3.3 Definitions .....27
- 3.4 Public safety and nuisances.....27
- 3.5 Obstructing or damaging public places .....27
- 3.6 Buildings and structures .....28
- 3.7 Fencing .....28
- 3.8 Vehicular crossings .....29
- 3.9 Naming of streets.....29
- 3.10 Numbering of properties and buildings .....29
- Schedule 1 of Part 3: Skateboarding prohibited area.....30
- Map 1: Skateboarding prohibited area in Ōpōtiki town centre .....30
- Part 4. Beaches.....31
- 4.1 Title.....31

4.2	Purpose.....	31
4.3	Definitions .....	31
4.4	Aircraft .....	31
4.5	Vehicle prohibited areas.....	31
4.6	Vehicle permitted areas .....	31
4.7	Motorcycle prohibited areas.....	32
4.8	Control of animals.....	32
4.9	Life saving.....	33
4.10	Hiring of craft.....	33
	Schedule 1 of Part 4: Vehicle prohibited areas.....	34
	Map 1: Ōhiwa Harbour Vehicle Prohibited Area.....	34
	Map 2: Ōhiwa Beach Vehicle Prohibited Area.....	35
	Map 3: Ōhiwa Spit Vehicle Prohibited Area.....	36
	Map 4: Waiōtahe Estuary Vehicle Prohibited Area.....	37
	Map 5: Waiōtahe Spit Vehicle Prohibited Area.....	38
	Map 6: Waiōtahe Beach Vehicle Prohibited Area.....	39
	Map 7: Waioeka River Vehicle Prohibited Area.....	40
	Map 8: Tirohanga Beach Vehicle Prohibited Area.....	41
	Map 9: Omarumutu to Ōpape Vehicle Prohibited Area.....	42
	Map 10: Whangaparaoa Vehicle Prohibited Area.....	43
Part 5.	Cemeteries.....	44
5.1	Title.....	44
5.2	Purpose.....	44
5.3	Definitions .....	44
5.4	Right of burial .....	44
5.5	Transfer of right of burial .....	44
5.6	Procedures for burial.....	44
5.7	Time of burials and unveiling ceremonies.....	44
5.8	Burial depth .....	45
5.9	Disinterment.....	45
5.10	Records.....	45
5.11	Monuments.....	45
5.12	Maintenance of plots .....	46
5.13	Use of vehicles .....	46
5.14	Conduct in cemeteries.....	46
5.15	Designated lawn cemetery areas .....	47
5.16	Garden of remembrance .....	47
5.17	Memorial cemetery areas.....	48

Part 6.	Control of Signs.....	49
6.1	Title.....	49
6.2	Purpose.....	49
6.3	Exclusions.....	49
6.4	Definitions .....	49
6.5	General requirements for signs .....	49
6.6	Signs on or over roads, footpaths and public places.....	49
6.7	Signs affecting traffic safety .....	50
6.8	General requirements for construction and maintenance of signs.....	50
6.9	Lighting of signs.....	51
6.10	Banners over public places .....	51
6.11	Signs for class 4 gambling venues.....	51
6.12	Signs for central government and local body elections .....	51
6.13	Signs on vehicles and trailers.....	52
6.14	Temporary signs.....	52
6.15	Real estate signs .....	52
6.16	Blimps and balloons .....	52
6.17	Sandwich boards.....	52
6.18	Ladder boards.....	52
6.19	Exemptions.....	53
6.20	Repair, alteration or removal of signs .....	53
Part 7.	Alcohol Control .....	54
7.1	Title.....	54
7.2	Purpose.....	54
7.3	Definitions .....	54
7.4	Prohibited acts in alcohol ban areas.....	54
7.5	Council resolutions .....	54
7.6	Signage.....	55
7.7	Enforcement .....	55
	Schedule 1 of Part 7: Alcohol ban areas.....	56
	Map 1: Extent of Alcohol Control Bylaw in Ōpōtiki Town Centre.....	56
	Map 2: Extent of Alcohol Control Bylaw in Tirohanga Beach .....	57
	Map 3: Extent of Alcohol Control Bylaw in Maraetai Bay Reserve .....	58
	Map 4: Extent of Alcohol Control Bylaw in Te Kaha.....	59
Part 8.	Animal Control.....	60
8.1	Title.....	60
8.2	Purpose.....	60
8.3	Definitions .....	60

8.4	Keeping of animals and stock .....	60
8.5	Pigs.....	60
8.6	Beekeeping .....	61
8.7	Poultry keeping .....	61
8.8	Stock slaughter.....	61
8.9	Control of horse riding in public places .....	61
8.10	Driving stock on roads .....	62
8.11	Crossing places for dairy herds.....	62
	Schedule 1 of Part 8 Animal Control Horse riding prohibited area in Ōpōtiki town centre .....	64
Part 9.	Dog Control .....	65
9.1	Title.....	65
9.2	Purpose.....	65
9.3	Definitions .....	65
9.4	Control of dogs .....	65
9.5	Dog exercise areas .....	65
9.6	Dog prohibited areas .....	65
9.7	Bitches in season .....	66
9.8	Diseased dogs.....	66
9.9	Duty to avoid nuisance.....	66
9.10	Limit on number of dogs on a premises.....	67
9.11	Impounding .....	67
9.12	Neutering of dogs.....	67
	Schedule 1 of Part 9: Dog control areas.....	69
Map 1:	Volkner Island dog exercise area.....	69
Map 2:	Church Street dog prohibited area.....	71
Map 3:	Hukutaia Domain dog prohibited area.....	72
Map 4:	Rose Garden preschool and playground dog prohibited area .....	73
Map 5:	Snells Beach dog prohibited area .....	74
Map 8:	Memorial Park Reserve dog prohibited area.....	77
Map 9:	Ohui Domain dog prohibited area .....	78
Part 10.	Solid Waste .....	79
10.1	Title.....	79
10.2	Purpose.....	79
10.3	Interpretation .....	79
10.4	Collection of waste and recyclables .....	79
10.5	Obstruction of footpath.....	79
10.6	Deposit of certain materials in approved containers prohibited .....	79
10.7	Responsibility to ensure road corridor is free of litter post-collection .....	79

10.8	Refuse disposal areas and transfer stations.....	80
10.9	Interference with an removal of waste or recyclable materials.....	80
10.10	Matters to be considered for issue of licences to collectors.....	80
Part 11.	Trade Waste.....	82
11.1	Title.....	82
11.2	Purpose.....	82
11.3	Definitions .....	82
11.4	Abbreviations .....	82
11.5	Control of Discharges .....	84
11.6	Storage, transportation and handling.....	84
11.7	Classification of trade waste discharges.....	84
11.8	Application for a trade waste consent .....	84
11.9	Conditions of trade waste consents.....	86
11.10	Duration of trade waste consents for permitted discharges .....	87
11.11	Duration of trade waste consents for conditional discharges.....	87
11.12	Technical review and variation.....	88
11.13	Cancellation of the right to discharge.....	88
11.14	Pre-treatment.....	89
11.15	Mass limits.....	90
11.16	Flow metering .....	90
11.17	Estimating discharge.....	91
11.18	Sampling and analysis .....	91
11.19	Monitoring .....	91
11.20	Tankered Wastes.....	92
11.21	Disinfected/super chlorinated water.....	93
11.22	Authorised Officers.....	93
11.23	Transfer or termination of rights and responsibilities .....	93
	Schedule 1 of Part 11 Permitted discharge characteristics.....	94
11.24	Introduction .....	94
11.25	Physical characteristics of permitted trade waste .....	94
11.26	Chemical characteristics of permitted trade waste.....	95
	Table 1 General chemical characteristics.....	95
	Table 2 Heavy metals .....	96
	Table 3 Organic compounds and pesticides.....	96
	Schedule 2 of Part 11 Prohibited trade waste characteristics .....	97
Part 12.	Water Supply.....	98
12.1	Title.....	98
12.2	Purpose.....	98

12.3	Definitions .....	98
12.4	Supply of water .....	98
12.5	Point of supply.....	98
12.6	Access to point of supply.....	99
12.7	Fire connections.....	99
12.8	Water meters.....	99
12.9	Level of service .....	99
12.10	Continuity of supply .....	100
12.11	Restrictions on water use .....	100
12.12	Estimating consumption.....	100
12.13	Customer responsibilities.....	100
12.14	General conditions .....	101
Part 13.	Traffic.....	102
13.1	Introduction .....	102
13.2	Purpose.....	102
13.3	Definitions .....	102
13.4	Stopping, standing and parking.....	102
13.5	Unlawful parking.....	102
13.6	Mobility parking.....	102
13.7	One-way roads .....	102
13.8	Turning restrictions.....	103
13.9	Heavy traffic restrictions and prohibitions .....	103
13.10	Special vehicle lanes.....	103
13.11	Turning movements permitted by specified classes of vehicles .....	103
13.12	Weights of vehicles or loads over bridges or culverts.....	103
13.13	Defences.....	103
13.14	Exempted vehicles.....	104
13.15	List of schedules.....	104
	Schedule 1 of Part 13 One way roads .....	105
	Schedule 2 of Part 13 Weight or load restrictions over bridges or culverts.....	105
Part 14.	Speed Limits .....	106
14.1	Title.....	106
14.2	Purpose.....	106
14.3	Commencement.....	106
14.4	Definitions .....	106
14.5	Setting of speed limits.....	106
14.6	List of schedules.....	106
	Schedule 1 of Part 14 Roads with a Speed Limit of 10km/h.....	107

Schedule 2 of Part 14 Roads with a Speed Limit of 20km/h.....107  
Schedule 3 of Part 14 Roads with a Speed Limit of 30km/h.....107  
Schedule 4 of Part 14 Roads with a Speed Limit of 40km/h.....107  
Schedule 5 of Part 14 Roads with a Speed Limit of 50km/h.....107  
Schedule 6 of Part 14 Roads with a Speed Limit of 60km/h.....110  
Schedule 7 of Part 14 Roads with a Speed Limit of 70km/h.....110  
Schedule 8 of Part 14 Roads with a speed limit of 80km/h .....110  
Schedule 9 of Part 14 Roads with a speed limit of 90km/h .....110  
Schedule 10 of Part 14 Roads with a speed limit of 100km/h .....111  
Schedule 11 of Part 14 Roads with Variable Speed Limit .....113  
Schedule 12 of Part 14 Roads with a Holiday Speed Limit.....113  
Schedule 13 of Part 14 Roads with a Minimum Speed Limit.....113



**Preface**

The Ōpōtiki District Council Consolidated Bylaws 2020 is made under the Local Government Act 2002 and other Acts that confer bylaw-making powers on local authorities, including but not limited to:

- Dog Control Act 1996
- Health Act 1956
- Land Transport Act 1998
- Waste Minimisation Act 2008.

## **Part 1. Introduction**

### **1.1 Title**

1.1.1 This is Part 1 Introduction of the Ōpōtiki District Council Consolidated Bylaws 2020.

### **1.2 Purpose**

1.2.1 The purpose of Part 1 Introduction is to provide for general matters and identify and clearly interpret terms and expressions that are used throughout the Consolidated Bylaw.

### **1.3 Commencement**

1.3.1 Unless otherwise stated, every part of the Consolidated Bylaw comes into force on 25 August 2020.

### **1.4 Revocation**

1.4.1 From the date the Consolidated Bylaw comes into force, all previous bylaws in force in the Ōpōtiki District are revoked.

1.4.2 All revoked bylaws remain in force and effect so far as they relate to anything done or any offence committed, penalty incurred, prosecution or proceeding commenced, right or liability accrued, licence issued, notice given, or order made, under or against any of the provisions of that bylaw before the Consolidated Bylaw coming into force.

1.4.3 All licences issued under any revoked bylaw will be deemed to have been issued under this Consolidated Bylaw after it comes into force and are subject to the provisions of this Consolidated Bylaw.

1.4.4 All officers appointed by Council under or for the purpose of any revoked bylaw and holding office at the time the Consolidated Bylaw comes into force will be deemed to have been appointed under the Consolidated Bylaw.

1.4.5 All fees and charges fixed by resolution of Council for any goods, services, inspections or licences provided for in any revoked bylaw will apply under the corresponding provisions of the Consolidated Bylaw until altered by further resolution of Council.

### **1.5 Definitions**

1.5.1 The following definitions apply to all parts of the Consolidated Bylaw.

**Access way** has the same meaning as in the [Local Government Act 1974](#).

#### *Explanatory note*

- *According to section 315 of the Local Government Act 1974, access way means any passage way, laid out or constructed by the authority of the council or the Minister of Works and Development or, on or after 1 April 1988, the Minister of Lands for the purposes of providing the public with a convenient route for pedestrians from any road, service lane, or reserve to another, or to any public place or to any railway station, or from one public place to another public place, or from one part of any road, service lane, or reserve to another part of that same road, service lane, or reserve.*

**Aircraft** has the same meaning as in the [Civil Aviation Rules](#).

#### *Explanatory note*

- *According to Part 1 of the Civil Aviation Rules, aircraft means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth.*

**Alcohol** has the same meaning as in the [Sale and Supply of Alcohol Act 2012](#).

*Explanatory note*

- According to section 5(1) of the Sale and Supply of Alcohol Act 2012, alcohol means a substance:
  - (a) That:
    - (i) is or contains a fermented, distilled, or spirituous liquor; and
    - (ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or
  - (b) that:
    - (i) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and
    - (ii) is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C; or
  - (c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people.

**Amenity values** has the same meaning as in the [Resource Management Act 1991](#).

*Explanatory note*

- According to section 2 of the Resource Management Act 1991, amenity values means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

**Animal** has the same meaning as in the [Animal Welfare Act 1999](#).

*Explanatory note*

- According to section 2(1) of the Animal Welfare Act 1999, animal:
  - (a) means any live member of the animal kingdom that is:
    - (i) a mammal; or
    - (ii) a bird; or
    - (iii) a reptile; or
    - (iv) an amphibian; or
    - (v) a fish (bony or cartilaginous); or
    - (vi) any octopus, squid, crab, lobster, or crayfish (including freshwater crayfish); or
    - (vii) any other member of the animal kingdom which is declared from time to time by the Governor-General, by Order in Council, to be an animal for the purposes of this Act; and
  - (b) includes any mammalian foetus, or any avian or reptilian pre-hatched young, that is in the last half of its period of gestation or development; and
  - (c) includes any marsupial pouch young; but
  - (d) does not include:
    - (i) a human being; or
    - (ii) except as provided in paragraph (b) or paragraph (c), any animal in the pre-natal, pre-hatched, larval, or other such developmental stage.

**Approved** means approved by Ōpōtiki District Council or by any officer of Council appointed or authorised for the purpose.

**Approved container** for the purposes of Part 10 Solid Waste means any container approved by the Council for the collection of any type of waste.

**At large** means at liberty, free, not restrained.

**Authorised officer** means any person appointed by the Chief Executive or Council to act on its behalf and with its authority and includes contractors or any person appointed especially or generally to enforce the provisions of any part of the Ōpōtiki District Council Consolidated Bylaw 2019.

**Balloon** or **blimp** means any sign made of flexible material, inflated by air, or inflated by a gas lighter than air.

**Banner** means any sign made of flexible material suspended in the air and supported on more than one side by poles or cables.

**Beach** means the foreshore being an area covered and uncovered by the tide between mean high water springs and mean low water springs and any adjacent area that can reasonably be considered part of the beach environment including areas of sand, pebbles, shell, shingle, dune, or coastal vegetation and to which the public has a right of access but does not include private property.

**Biosolids** means sewage sludge derived from a sewage treatment plant that has been treated and/or stabilised to the extent that it is able to be safely and beneficially applied to land and does not include products derived solely from industrial wastewater treatment plants. Biosolids include products containing biosolids (e.g. composts).

**Building** means a temporary or permanent movable or immovable physical construction that is partially or fully roofed, and is fixed or located on or in land, but excludes any motorised vehicle or other mode of transport that could be moved under its own power.

**Characteristic** for the purposes of Part 11 Trade Waste means any of the physical or chemical characteristics of a trade waste and may include the level of a characteristic.

**Chief Executive** means the chief executive of Ōpōtiki District Council appointed under section 42 of the Local Government Act 2002 or a person acting under a delegated authority on behalf of the Chief Executive and includes any person for the time being appointed by the Council to perform the duties or a particular duty of the Chief Executive.

**Class 4 venue** has the same meaning as in the [Gambling Act 2003](#).

*Explanatory note*

- According to section 4 of the Gambling Act 2003, class 4 venue means a place used to operate class 4 gambling.
- According to section 30 of the Gambling Act 2003, class 4 gambling is gambling that satisfies the following criteria:
  - (a) the net proceeds from the gambling are applied to, or distributed for, authorised purposes; and
  - (b) either:
    - (i) no commission is paid to or received by a person for conducting the gambling; or
    - (ii) the only commission that is paid to or received by a person for conducting the gambling is a commission payment to a venue operator that complies with regulations made under section 371(1)(dd); and
  - (c) there are game rules for the gambling; and
  - (d) the gambling, and the conduct of the gambling, satisfies relevant game rules; and
  - (e) either:
    - (i) the Secretary has categorised the gambling as class 4 gambling and not as another class of gambling; or
    - (ii) the gambling utilises or involves a gaming machine.

**Cleaner production** for the purposes of Part 11 Trade Wastes means the implementation on trade premises of effective operations, methods, and processes appropriate to the goal of reducing or eliminating the quantity and toxicity of wastes.

**Coastal Zone** means land zoned accordingly in the District Plan.

**Coastal Settlement Zone** means land zoned accordingly in the District Plan.

**Condensing water** or **cooling water** means any water used in any trade, industry, or commercial process or operation in such a manner that it does not take up matter into solution or suspension.

**Conditional trade waste** means trade waste that has conditions placed upon the consent holder by the Council.

**Consolidated Bylaw** means the Ōpōtiki District Council Consolidated Bylaw 2019, or any part or parts thereof, for the time being in force and made under the provisions of any Act or authority enabling the Council to make bylaws.

**Contaminant** has the same meaning as in the [Resource Management Act 1991](#).

*Explanatory note*

- According to section 2 of the Resource Management Act 1991, contaminant includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat:
  - (a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or
  - (b) when discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged.

**Council** means Ōpōtiki District Council.

**Cycle** has the same meaning as in the [Land Transport \(Road User\) Rule 2004](#).

*Explanatory note*

- According to section 1.6 of the Land Transport (Road User) Rule 2004, cycle:
  - (a) means a vehicle that has at least 2 wheels and that is designed primarily to be propelled by the muscular energy of the rider; and
  - (b) includes a power-assisted cycle.

**Dangerous dog** has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 31 of the Dog Control Act 1996:
  - (1) A territorial authority must classify a dog as a dangerous dog if:
    - (a) the owner of the dog has been convicted of an offence in relation to the dog under section 57A(2); or
    - (b) the territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on 1 or more occasions, reasonable grounds to believe that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife; or
    - (c) the owner of the dog admits in writing that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.
  - (2) Where any dog is classified as a dangerous dog under subsection (1), the territorial authority shall immediately give notice in the prescribed form of that classification to the owner.
  - (3) Where any dog is classified as a dangerous dog under subsection (1)(b), the owner may, within 14 days of the receipt of notice of that classification under subsection (2), object to the classification in writing to the territorial authority, and shall be entitled to be heard in support of his or her objection.
  - (4) In considering any objection under this section, the territorial authority shall have regard to:
    - (a) the evidence which formed the basis for the original classification; and

- (b) any steps taken by the owner to prevent any threat to the safety of persons and animals; and
- (c) the matters advanced in support of the objection; and
- (d) any other relevant matters and may uphold or rescind the classification.

(5) The territorial authority shall give notice of its decision on any objection, and the reasons for its decision, to the owner as soon as practicable.

**Disability assist dog** has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 2 of the Dog Control Act 1996, disability assist dog means a dog certified by one of the organisations listed in Schedule 5 as being a dog that has been trained (or is being trained) to assist a person with a disability.

**Disconnection** for the purposes of Part 11 Trade Waste means the physical cutting and sealing of any of the Council's water services, utilities, drains, or sewer for use by any person.

**District** means the district within the jurisdiction and under the control of Ōpōtiki District Council.

**District Plan** means the Operative Ōpōtiki District Plan.

**Diverted material** has the same meaning as in the [Waste Minimisation Act 2008](#).

*Explanatory note*

- According to section 5 of the Waste Minimisation Act 2008, diverted material means any thing that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded.

**Dog control officer** has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 2 of the Dog Control Act 1996, dog control officer means a dog control officer appointed under section 11; and includes a warranted officer exercising powers under section 17.

**Dog ranger** has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 2 of the Dog Control Act 1996, dog ranger means a dog ranger appointed under section 12; and includes an honorary dog ranger.

**Domestic animal** has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 2 of the Dog Control Act 1996, includes:
  - (a) any animal (including a bird or reptile) kept as a domestic pet:
  - (b) any working dog:
  - (c) any other animal kept by any person for recreational purposes or for the purposes of that person's occupation or employment.

**Domestic sewage** means foul water (with or without matter in solution or suspension therein) discharged from premises used solely for residential purposes, or wastes of the same character discharged from other premises; but does not include any solids, liquids, or gases that may not lawfully be discharged into the wastewater system and may include geothermal water.

**Dune** means any hill, mound, or ridge of sand or sediment, or any series of such, either bare or vegetated, landward of a coastal or river beach but does not include private property.

**Dwelling** has the same meaning as in the District Plan and means a self-contained residence of one household.

**Emergency** has the same meaning as in the [Civil Defence Emergency Management Act 2002](#).

*Explanatory note*

- According to section 4 of the Civil Defence Emergency Management Act 2002, emergency means a situation that:
  - (a) is the result of any happening, whether natural or otherwise, including, without limitation, any explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, technological failure, infestation, plague, epidemic, failure of or disruption to an emergency service or a lifeline utility, or actual or imminent attack or warlike act; and
  - (b) causes or may cause loss of life or injury or illness or distress or in any way endangers the safety of the public or property in New Zealand or any part of New Zealand; and
  - (c) cannot be dealt with by emergency services, or otherwise requires a significant and co-ordinated response under this Act.

**Emergency vehicle** has the same meaning as in the [Land Transport \(Road User\) Rule 2004](#).

*Explanatory note*

- According to section 1.6 of the Land Transport (Road User) Rule 2004, emergency vehicle means a vehicle used for attendance at emergencies and operated:
  - (a) by an enforcement officer;
  - (b) by an ambulance service;
  - (c) as a fire service vehicle;
  - (d) as a civil defence emergency vehicle;
  - (e) as a defence force emergency vehicle.

**Enactment** has the same meaning as in the [Interpretation Act 1999](#).

*Explanatory note*

- According to section 29 of the Interpretation Act 1999, enactment means the whole or a portion of an Act or regulations.

**Enforcement officer** has the same meaning as in the [Land Transport \(Road User\) Rule 2004](#).

*Explanatory note*

- According to section 1.6 of the Land Transport (Road User) Rule 2004, enforcement officer means:
  - (a) a constable;
  - (b) a Police employee who is not a constable who is authorised for the purpose by the Commissioner of Police;
  - (c) a person who is appointed to that office by warrant under section 208 of the Act or who holds that office by virtue of the [Land Transport] Act [1998].

**Firework** has the same meaning as in the [Hazardous Substances \(Fireworks\) Regulations 2001](#).

*Explanatory note*

- According to section 3 of the *Hazardous Substances (Fireworks) Regulations 2001*, firework:
  - (a) has the same meaning as in section 2 of the [*Hazardous Substances and New Organisms Act [1996]*]; and
  - (b) includes any pyrotechnic novelty or noise maker.
- According to section 2 of the [Hazardous Substances and New Organisms Act 1996](#), firework means an object containing small quantities of hazardous substances with explosive properties enclosed in a case of paper or similar material of such a strength, construction, and character that the ignition or explosion of one such firework will not cause the explosion en masse of similar fireworks kept or carried with it, and whose sole or principal effect is not percussive or vertical or horizontal flight.

**Footpath** has the same meaning as in the [Local Government Act 1974](#).

*Explanatory note*

- According to section 315 of the *Local Government Act 1974*, footpath means so much of any road as is laid out or constructed by authority of the council primarily for pedestrians; and includes the edging, kerbing, and channelling thereof.

**Foul water** has the same meaning as in the [Building Code](#).

*Explanatory note*

- According to clause A2 of the *Building Code*, contained in Schedule 1 of the *Building Regulations 1992*, foul water means the discharge from any sanitary fixtures or sanitary appliances.

**Freedom camp** has the same meaning as in the [Freedom Camping Act 2011](#).

*Explanatory note*

- According to section 5 of the *Freedom Camping Act 2011*:
  - (1) In this Act, freedom camp means to camp (other than at a camping ground) within 200 m of a motor vehicle accessible area or the mean low-water springs line of any sea or harbour, or on or within 200 m of a formed road or a Great Walks Track, using 1 or more of the following:
    - (a) a tent or other temporary structure;
    - (b) a caravan;
    - (c) a car, campervan, housetruck, or other motor vehicle.
  - (2) In this Act, freedom camping does not include the following activities:
    - (a) temporary and short-term parking of a motor vehicle;
    - (b) recreational activities commonly known as day-trip excursions;
    - (c) resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.
  - (3) In subsection (1):

camping ground means:

    - (a) a camping ground that is the subject of a current certificate of registration under the *Camping-Grounds Regulations 1985*; and
    - (b) any site at which a fee is payable for camping at the site

Great Walks Track means:

    - (a) a track specified in Schedule 1; and
    - (b) any other track specified by Order in Council made under section 44 as a Great Walks Track.



**Goods** means any product or service.

**Hazardous waste** has the same meaning as in the [Hazardous Substances and New Organisms Act 1996](#).

*Explanatory notes*

- According to section 2 of the Hazardous Substances and New Organisms Act 1996, hazardous substance means, unless expressly provided otherwise by regulations or an EPA notice, any substance:
  - (a) with 1 or more of the following intrinsic properties:
    - (i) explosiveness;
    - (j) flammability;
    - (k) a capacity to oxidise;
    - (l) corrosiveness;
    - (m) toxicity (including chronic toxicity);
    - (n) ecotoxicity, with or without bioaccumulation; or
  - (b) which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a).

**Heavy motor vehicle** has the same meaning as in the [Land Transport \(Road User\) Rule 2004](#).

*Explanatory note*

- According to section 1.6 of the Land Transport (Road User) Rule 2004, heavy motor vehicle means a motor vehicle that has a gross vehicle mass exceeding 3 500 kg.

**Horse** has the same meaning as in the [Animal Welfare \(Care and Procedures\) Regulations 2018](#).

*Explanatory note*

- According to section 3 of the Animal Welfare (Care and Procedures) Regulations 2018, horse:
  - (a) except in regulation 54, means any equid, including any horse, pony, or donkey, and any of their hybrids; but
  - (b) in any case does not include a zebra.

**Hours of darkness** means any period of time between half an hour after sunset and half an hour before sunrise the next day.

**Infringement offence** means an offence for which any person can be punished on indictment, by summary process or by infringement process.

**Ladder board** means a sign constructed with two vertical uprights between which are displayed at least two advertising signs belonging to separate businesses.

**Licence** means any licence, permit, approval, or other form of consent issued or granted by the Council.

**Litter** has the same meaning as in the [Litter Act 1979](#).

*Explanatory note*

- According to section 2 of the Litter Act 1979, litter includes any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other thing of a like nature.

**Management plan** for the purposes of Part 11 Trade Waste means a plan for management of operations on the premises from which trade wastes come, and may include provision for cleaner production, waste minimisation, discharge, contingency management procedures, and any relevant industry code of practice.

**Mass limit** means the total mass of any characteristic that may be discharged to the Council wastewater system over any stated period from any single point of discharge or collectively from several points of discharge.

**Maximum concentration** means the instantaneous peak concentration that may be discharged at any instant in time.

**Menacing dog** means a dog classified under section 33A or 33C of the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 33A of the Dog Control Act 1996:
  - (1) This section applies to a dog that:
    - (a) has not been classified as a dangerous dog under section 31; but
    - (b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of:
      - (i) any observed or reported behaviour of the dog; or
      - (ii) any characteristics typically associated with the dog's breed or type.
  - (2) A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.
  - (3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice in the prescribed form to the owner of:
    - (a) the classification; and
    - (b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and
    - (c) the right to object to the classification under section 33B; and
    - (d) if the territorial authority's policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of sections 33EA and 33EB if the owner does not object to the classification and the dog is moved to the district of another territorial authority.
- According to section 33C of the Dog Control Act 1996:
  - (1) A territorial authority must, for the purposes of section 33E(1)(a), classify as menacing any dog that the territorial authority has reasonable grounds to believe belongs wholly or predominantly to 1 or more breeds or types listed in Schedule 4.
  - (2) If a dog is classified as menacing under subsection (1), the territorial authority must immediately give written notice in the prescribed form to the owner of:
    - (a) the classification; and
    - (b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and
    - (c) the right to object to the classification under section 33D.

**Mixed Activity Zone** means land zoned accordingly in the District Plan.

**Not under control** in relation to a dog has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 52(2) of the Dog Control Act 1996, a dog shall, for the purposes of this Act, be deemed to be not under control:
  - (a) if it is found at large on any land or premises other than a public place or a private way without the consent (express or implied) of the occupier or person in charge of that land or those premises; or
  - (b) if it is found at large in any public place or in any private way in contravention of any regulation or bylaw.

**Nuisance** has the same meaning as in the [Health Act 1956](#).

*Explanatory note*

- According to section 29 of the Health Act 1956, Without limiting the meaning of the term nuisance, a nuisance shall be deemed to be created in any of the following cases, that is to say:
  - (a) where any pool, ditch, gutter, watercourse, sanitary convenience, cesspool, drain, or vent pipe is in such a state or is so situated as to be offensive or likely to be injurious to health:
  - (b) where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health:
  - (c) where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin:
  - (d) where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health:
  - (e) [Repealed]
  - (f) where any building or part of a building is so overcrowded as to be likely to be injurious to the health of the occupants, or does not, as regards air space, floor space, lighting, or ventilation, conform with the requirements of this or any other Act, or of any regulation or bylaw under this or any other Act:
  - (g) where any factory, workroom, shop, office, warehouse, or other place of trade or business is not kept in a clean state, and free from any smell or leakage from any drain or sanitary convenience:
  - (h) where any factory, workroom, shop, office, warehouse, or other place of trade or business is not provided with appliances so as to carry off in a harmless and inoffensive manner any fumes, gases, vapours, dust, or impurities generated therein:
  - (i) where any factory, workroom, shop, office, warehouse, or other place of trade or business is so overcrowded while work is carried on therein, or is so badly lighted or ventilated, as to be likely to be injurious to the health of the persons employed therein:
  - (j) where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health:
  - (k) where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health:
  - (ka) where any noise or vibration occurs in or is emitted from any building, premises, or land to a degree that is likely to be injurious to health:
  - (l) where any trade, business, manufacture, or other undertaking is so carried on as to be unnecessarily offensive or likely to be injurious to health:
  - (m) where any chimney, including the funnel of any ship and the chimney of a private dwellinghouse, sends out smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health, or in any manner contrary to any regulation or Act of Parliament:
  - (n) where the burning of any waste material, rubbish, or refuse in connection with any trade, business, manufacture, or other undertaking produces smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health:

- (o) *where any street, road, right of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health:*
- (p) *where any well or other source of water supply, or any cistern or other receptacle for water which is used or is likely to be used for domestic purposes or in the preparation of food, is so placed or constructed, or is in such a condition, as to render the water therein offensive, or liable to contamination, or likely to be injurious to health:*
- (q) *where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease.*

**Network utility operator** has the same meaning as in the [Resource Management Act 1991](#).

*Explanatory note*

- *According to section 166 of the Resource Management Act 1991, network utility operator means a person who:*
  - (a) *undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or*
  - (b) *operates or proposes to operate a network for the purpose of:*
    - (i) *telecommunication as defined in section 5 of the Telecommunications Act 2001; or*
    - (ii) *radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989; or*
  - (c) *is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or*
  - (d) *undertakes or proposes to undertake the distribution of water for supply (including irrigation); or*
  - (e) *undertakes or proposes to undertake a drainage or sewerage system; or*
  - (f) *constructs, operates, or proposes to construct or operate, a road or railway line; or*
  - (g) *is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or*
  - (h) *is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or*
  - (i) *undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act.*

**Neutered dog** has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- *According to section 2 of the Dog Control Act 1996, neutered dog means a dog that has been spayed or castrated; and does not include a dog that has been vasectomised.*

**Mobility device** has the same meaning as in the [Land Transport \(Road User\) Rule 2004](#).

*Explanatory note*

- *According to section 1.6 of the Land Transport (Road User) Rule 2004, mobility device means:*
  - (a) *a vehicle that:*
    - (i) *is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and*
    - (ii) *is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or*
  - (b) *a vehicle that the Agency has declared under section 168A(1) of the Land Transport Act 1998 to be a mobility device.*

**Mobility parking space** means a parking space set aside under Part 13 Traffic for use by people who hold a mobility parking permit.

**Mobility parking permit** means a permit issued by CCS Disability Action to persons with physical disabilities for the purpose of its mobility parking permit scheme.

**Motor vehicle** has the same meaning as in the [Land Transport Act 1998](#).

*Explanatory note*

- According to section 2 of the Land Transport Act 1998, 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** has the same meaning as in the [Land Transport Act 1998](#).

*Explanatory note*

- According to section 2 of the Land Transport Act 1998, 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 Agency; but
  - (c) does not include a moped.

**Occupier** means the inhabitant occupier of any property and in any case where any building, house, tenement, or premises is unoccupied, includes the owner.

**Offence** includes any act or omission in relation to the Consolidated Bylaw or any part thereof for which any person can be punished by summary process or is liable to prosecution.

**Ōhiwa Harbour Zone** means land zoned accordingly in the District Plan.

**Ōpōtiki Ward** means the Ōpōtiki Ward of the Ōpōtiki District.

**Owner** in relation to any property or premises, means the person for the time being entitled to receive the rent of the property or premises, or who would be so entitled if the property or premises were let to a tenant at a rack rent, and where such person is absent from New Zealand, includes their attorney or agent.

**Owner** in relation to any dog has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 2 of the Dog Control Act 1996, owner, in relation to any dog, means every person who:
  - (a) Owns the dog, or
  - (b) Has the dog in his or her possession, whether the dog is at large or in confinement, or
  - (c) The parent or guardian of a person under the age of 16 years who:
    - (i) Is the owner of the dog pursuant to paragraph (a) or paragraph (b) of this definition, and
    - (ii) Is a member of the parent or guardian's household and
    - (iii) Lives with and is dependent on the parent or guardianbut does not include a person who has seized or taken custody of a dog for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, damage, or distress, or for the sole purpose of restoring a lost dog to its owner.

**Parking place** has the same meaning as in the [Local Government Act 1974](#).

*Explanatory note*

- According to section 591(6) of the Local Government Act 1974, parking place means a place (including a building) where vehicles, or any class of vehicles, may wait.

**Parking warden** has the same meaning as in the [Land Transport Act 1998](#).

*Explanatory note*

- According to section 2 of the Land Transport Act 1998, parking warden means a person appointed to hold the office of parking warden under section 128D of the Land Transport Act 1998.

**Passenger service vehicle** has the same meaning as in the [Land Transport Act 1998](#).

- According to section 2 of the Land Transport Act 1998, passenger service vehicle:
  - (a) means a vehicle used or available for use in a passenger service for the carriage of passengers; but
  - (b) does not include:
    - (i) a vehicle designed or adapted to carry 12 or fewer persons (including the driver) provided by one of the passengers being carried; or
    - (ii) a vehicle specified as an exempt passenger service vehicle in the regulations or the rules.

**Permitted discharge** for the purposes of Part 11 Trade Waste means a trade waste discharge that has been approved by, or is acceptable to, the Council and as long as it has the physical and chemical characteristics that comply with the requirements of the Council standard as defined in Schedule 1 of Part 11 Trade Waste.

**Person** means a natural person, incorporated company, or a body of persons whether incorporated or not.

**Point of discharge** means the boundary between the public sewer and a private drain but for the purposes of monitoring, sampling and testing, will be as designated in the trade waste consent.

**Poster** means any sign including a placard or leaflet which is affixed to street furniture, utilities, traffic signage, or placed on any car windscreen, wall or building.

**Poultry** has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 2 of the Dog Control Act 1996, poultry means any live bird (including a domestic fowl, a duck, a goose, a turkey, a guinea-fowl, a pheasant, an emu, an ostrich, a quail, or a pigeon) that is kept or raised for the purpose of sale or of producing eggs, hatching eggs, or poultry products or for the purpose of rearing on behalf of another person.

**Pre-treatment** means any processing of trade waste designed to reduce or vary any characteristic in a waste before discharge to the wastewater system in order to comply with a trade waste consent.

**Premises** means:

- (a) A property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued.
- (b) A building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available.
- (c) Land held in public ownership (e.g. reserve) for a particular purpose.
- (d) Individual units in buildings which are separately leased or separately occupied.

**Private drain** means that section of drain between the premises and the point of connection to the Council's wastewater system.

**Private way** has the same meaning as in the [Local Government Act 1974](#).

*Explanatory note*

- According to section 315 of the Local Government Act 1974, private way means any way or passage whatsoever over private land within a district, the right to use which is confined or intended to be confined to certain persons or classes of persons, and which is not thrown open or intended to be open to the use of the public generally; and includes any such way or passage as aforesaid which at the commencement of this Part exists within any district.

**Prohibit** means to debar or forbid.

**Prohibited trade waste** means a trade waste that has prohibited characteristics as defined in Schedule 2 of Part 11 Trade Waste and does not meet the conditions of Schedule 11 of Part 11 Trade Waste. The waste is not acceptable for discharge into the Council's system unless specifically approved as a conditional trade waste.

**Prohibited waste** means waste containing:

- (a) any material capable of causing injury to any person or animal unless the material is sufficiently contained to prevent injury.
- (b) any material capable of causing damage to the approved container or likely to shatter in the course of collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury.
- (c) any material that may endanger any person, animal or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal.
- (d) any liquid or any viscous fluid.
- (e) any radioactive wastes, but excluding domestic smoke detectors.
- (f) any used oil and lead-acid batteries.
- (g) any hazardous waste.
- (h) medical waste.
- (i) any other material the Council advertises as prohibited.

**Public performance** includes public speaking, busking, miming, singing, dancing, acting, or playing musical instruments.

**Public place** for the purposes of Part 7 Alcohol Control has the same meaning as in the [Local Government Act 2002](#).

*Explanatory note*

- According to section 147(1) of the Local Government Act 2002, public place:
  - (a) means a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but
  - (b) does not include licensed premises.

**Public place** means any place that is under the control of Council and is open to or being used by the public, whether free or on payment of a charge, and includes any road whether or not it is under the control of Council.

**Recycling** has the same meaning as in the [Waste Minimisation Act 2008](#).

*Explanatory note*

- According to section 5 of the Waste Minimisation Act 2008, recycling means the reprocessing of waste or diverted material to produce new materials.

**Residential Zone** means land zoned accordingly in the District Plan.

**Reserve** has the same meaning as in the [Reserves Act 1977](#).

*Explanatory note*

- According to section 2 of the Reserve Act 1977, reserve or public reserve, except as hereinafter provided in this definition, means any land set apart for any public purpose; and includes:
  - (a) any land which immediately before the commencement of this Act was a public reserve within the meaning of the Reserves and Domains Act 1953:
  - (b) any land vested in the Crown which after the commencement of this Act is reserved or set apart under Part 12 of the Land Act 1948 or other lawful authority as a reserve, or alienated from the Crown for the purpose of a reserve:
  - (c) any land which after the commencement of this Act is vested in the Crown by or under the authority of any Act as a reserve:
  - (d) any land which after the commencement of this Act is taken, purchased, or otherwise acquired in any manner whatever by the Crown as a reserve or in trust for any particular purpose:
  - (e) any land acquired after the commencement of this Act in any manner by an administering body as a reserve within the meaning of this Act, and any land vested in any local authority which, not theretofore being a public reserve, is by resolution of the local authority pursuant to section 14 declared to be set apart as a reserve:
  - (f) any private land set apart as a reserve in accordance with the provisions of any Act:
  - (g) any land which immediately before the commencement of this Act was a domain or public domain within the meaning of the Reserves and Domains Act 1953:
  - (h) any land, other than a national park within the meaning of the National Parks Act 1980, administered under the Tourist and Health Resorts Control Act 1908:
  - (i) any land taken or otherwise acquired or set apart by the Crown under the Public Works Act 1981 or any corresponding former Act, whether before or after the commencement of this Act, for the purposes of a reserve, a recreation ground, a pleasure ground, an agricultural showground, or a tourist and health resort:  
but does not include:
    - (j) any land taken or otherwise acquired or set apart under the Public Works Act 1981 or any corresponding former Act, whether before or after the commencement of this Act, for any purpose not specified in paragraph (i):



- (k) any land to which section 167(4) of the Land Act 1948 applies:
- (l) any land taken, purchased, or otherwise in any manner acquired, whether before or after the commencement of this Act, by a local authority, unless the land is acquired subject to a trust or a condition that it shall be held by the local authority as a reserve:
- (m) any Maori reservation

**Road** has the same meaning as in the [Local Government Act 1974](#).

*Explanatory note*

- According to section 315(1) of the Local Government Act 1974, road means the whole of any land which is within a district, and which:
  - (a) immediately before the commencement of this Part was a road or street or public highway; or
  - (b) immediately before the inclusion of any area in the district was a public highway within that area; or
  - (c) is laid out by the council as a road or street after the commencement of this Part; or
  - (d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or
  - (e) is vested in the council as a road or street pursuant to any other enactment;
 and includes:
  - (f) except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988;
  - (g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;
 but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roading Powers Act 1989.

**Road** for the purposes of Part 13 Traffic and Part 14 Speed Limits has the same meaning as in the [Land Transport Act 1998](#).

*Explanatory note*

- According to section 2 of the Land Transport Act 1998, road includes:
  - (a) a street; and
  - (b) a motorway; and
  - (c) a beach; and
  - (d) a place to which the public have access, whether as of right or not; and
  - (e) all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in paragraph (d); and
  - (f) all sites at which vehicles may be weighed for the purposes of this Act or any other enactment.

**Roadway** means that portion of the road used or able to be used for the time being for vehicular traffic in general.

**Rural area** means any areas zoned Rural, Coastal, Coastal Settlement, or Ōhiwa Harbour under the District Plan.

**Sandwich board** means any portable sign placed on a public place advertising a place, goods, services, or an event.

**Sanitary appliance** has the same meaning as in the [Building Code](#).

*Explanatory note*

- According to clause A2 of the Building Code, contained in Schedule 1 of the Building Regulations 1992, sanitary appliance means an appliance which is intended to be used for sanitation, but which is not a sanitary fixture. Included are machines for washing dishes and clothes.

**Sanitary fixture** has the same meaning as in the [Building Code](#).

*Explanatory note*

- According to clause A2 of the Building Code, contained in Schedule 1 of the Building Regulations 1992, sanitary fixture means any fixture which is intended to be used for sanitation.

**Sanitation** has the same meaning as in the [Building Code](#).

*Explanatory note*

- According to clause A2 of the Building Code, contained in Schedule 1 of the Building Regulations 1992, sanitary is the term used to describe the activities of washing and/or excretion carried out in a manner or condition such that the effect on health is minimised, with regard to dirt and infection.

**Service delivery vehicle** means any vehicle being used for the purposes of delivering goods to the premises of any business or organisation and does not involve the sale of the goods to the general public in any public places.

**Sewage** means foul water and may include trade wastes.

**Sewage sludge** means the solid material settled out and removed from sewage during the treatment process.

**Sewer** means the pipework drainage system that conveys sewage.

**Sign** has the same meaning as in the District Plan and includes any advertising device, such as names, figures, characters, pictures, notices and placards on any surface including walls, vehicles, fences, including carving in wood or stone, to attract attention, and includes any background, frame, or other supporting structure, except for poles supporting signs. They include all parts, portions, units and materials composing the same, together with the frame, background, structure and support of anchorage thereof, and shall also include any of the foregoing things when displayed on parked vehicles and/or trailers.

**Significant industry** for the purposes of Part 11 Trade Waste means an industry the Council has determined is significant by reference to the discharge and the volumes to be discharged in accordance with Part 11 Trade Waste.

**Skateboard** means a board mounted on sets of small wheels for riding on and any similar recreational device, including in-line skates and roller skates, but does not include any wheelchair, baby carriage, or mobility device for disabled persons.

**Special vehicle lane** has the same meaning as in the [Land Transport \(Road User\) Rule 2004](#).

*Explanatory note*

- According to section 1.6 of the Land Transport (Road User) Rule 2004, special vehicle lane means a lane defined by signs or markings as restricted to a specified class or classes of vehicle; and includes a bus lane, a transit lane, a cycle lane, and a light rail vehicle lane.

**Speed limit** has the same meaning as in the [Land Transport Rule: Setting of Speed Limits 2017](#).

*Explanatory note*

- According to Part 1, section (1) of the Land Transport Rule Setting of Speed Limits 2017 Rule 54001/2017, speed limit:
  - (a) Means:
    - (i) an urban, rural, permanent, holiday, temporary, emergency, or variable speed limit; and
    - (ii) the maximum speed at which a vehicle may legally be operated on a particular road; but
  - (b) does not mean the maximum permitted operating speed for classes or types of vehicle specified in any Act, regulation, or rule.

**Stock** has the same meaning as in the [Dog Control Act 1996](#).

*Explanatory note*

- According to section 2 of the [Dog Control Act 1996](#), stock means:
  - (a) any live horse, cattle, sheep, swine, alpaca, llama, bison, donkey, hinny, mule, or water buffalo that is not in a wild state;
  - (b) any deer, goat, tahr, rabbit, possum, or other animal that is kept within a fence or enclosure for domestic or farming purposes.

**Stormwater** means run-off that has been intercepted, channelled, diverted, intensified or accelerated by human modification of a land surface, or run-off from the surface of any structure, as a result of precipitation and includes any contaminants contained within.

**Tankered waste** means water or other liquid, including waste matter in solution or suspension, which is conveyed by vehicle for disposal, excluding domestic sewage discharged directly from house buses, caravans, buses and similar vehicles.

**Temporary discharge** means any discharge of an intermittent or short duration, including the short-term discharge of an unusual waste from premises subject to an existing consent.

**Temporary sign** has the same meaning as in the District Plan and means any sign not intended for permanent display which is erected on a site to announce a community event, electioneering, identifying a construction site, hazard identification and warning, or a real estate sign in relation to the sale of land or buildings on the same site.

**Trade premises** means:

- (a) Any premises used or intended to be used for any industrial or trade purpose.
- (b) Any premises used or intended to be used for the storage, transfer, treatment, or disposal of waste materials or for other waste management purposes, or used for composting organic materials.
- (c) Any other premises from which a contaminant is discharged in connection with any industrial or trade process.
- (d) Any other premises discharging other than domestic sewage.

and includes any land or premises wholly or mainly used for agricultural or horticultural purposes.

**Trade waste** means any liquid, with or without matter in suspension or solution, that is or may be discharged from a trade premises to the Council's wastewater system in the course of any trade or industrial process or operation, or in the course of any activity or operation of a like nature, and may include condensing or cooling waters, stormwater which cannot be practically separated, or domestic sewage.

**Trailer** has the same meaning as in the Land Transport Act 1998.

*Explanatory note*

- According to Part 17, section 233 of the Land Transport Act 1998, trailer means a vehicle without its own power source that is capable of being drawn or propelled by a motor vehicle from which it is readily detachable, but does not include:
  - (a) a sidecar attached to a motorcycle; or
  - (b) a vehicle normally propelled by mechanical power while it is being temporarily towed without the use of its own power.

**Traffic control device** has the same meaning as in the [Land Transport Rule: Traffic Control Devices 2004](#).

*Explanatory note*

- According to Part 2 of the Land Transport Rule: Traffic Control Devices 2004, traffic control device means a device used on a road for the purpose of traffic control; and includes any:
  - (a) sign, signal, or notice; or
  - (b) traffic calming device; or
  - (c) marking or road surface treatment.

**Transport station** has the same meaning as in the [Local Government Act 1974](#).

*Explanatory note*

- According to section 591(6) of the Local Government Act 1974, transport station means a place where transport-service vehicles, or any class of transport-service vehicles, may wait between trips.

**Town Centre Zone** means land zoned accordingly in the District Plan.

**Urban area** means any areas zoned as Residential, Industrial, Town Centre and Mixed Activity under the District Plan.

**Urban traffic area** has the same meaning as in the [Land Transport Rule: Setting of Speed Limits 2017](#).

*Explanatory note*

- Clause 3.5 of the Land Transport Rule: Setting of Speed Limits 2017 allows a road controlling authority (RCA) to designate an area as an urban traffic area and propose a speed limit that is other than 50 km/h for a road within that area.

**Vehicle** has the same meaning as in the [Land Transport Act 1998](#).

*Explanatory note*

- According to section 2 of the Land Transport Act 1998, 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.*

**Vehicle crossing** means a properly formed and constructed access for vehicles to enter or leave private property from, or onto a road.

**Vessel** means any ship or boat and includes any motorised vessel, yacht, inflatable rubber boat, kayak, jet ski, and any fishing boats designed to be used in the sea or river, but does not include wakeboards, kitesurfing-boards, surfboards, or stand-up paddle boards.

**Waste** has the same meaning as in the [Waste Minimisation Act 2008](#).

*Explanatory note*

- *According to section 5 of the Waste Minimisation Act 2008, waste:*
  - (a) *means any thing disposed of or discarded; and*
  - (b) *includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and*
  - (c) *to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.*

**Waste management and minimisation plan** means the waste management and minimisation plan adopted by the Council under section 43 of the [Waste Minimisation Act 2008](#).

**Wastewater system** means the system for collection, treatment and disposal of sewage and trade wastes, including all sewers, pumping stations, storage tanks, sewage treatment plants, outfalls, and other related structures operated by the Council and used for the reception, treatment and disposal of trade wastes.

**Wheeled recreational device** has the same meaning as in the [Land Transport \(Road User\) Rule 2004](#).

*Explanatory note*

- *According to section 1.6 of the Land Transport (Road User) Rule 2004, wheeled recreational device:*
  - (a) *means a vehicle that is a wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity; and*
  - (b) *includes a conveyance to which are attached 1 or more auxiliary propulsion motors that have a combined maximum power output not exceeding 300 W.*

**Working dog** has the same meaning as in the [Dog Control Act 1996](#) and includes hunting dogs that are kept solely or principally for the purposes of hunting game by a person undertaking legal hunting activities, and that have completed avian awareness and aversion training, as resolved at the Ordinary Council meeting on 23 April 2019.

*Explanatory note*

- *According to section 2 of the Dog Control Act 1996, working dog means:*
  - (a) *any disability assist dog:*
  - (b) *any dog:*
    - (i) *kept by the Police or any constable, the New Zealand Customs Service, the Ministry of Agriculture and Forestry, the Ministry of Fisheries, or the Ministry of Defence, or any officer or employee of any such department of State solely or principally for the purposes of carrying out the functions, powers, and duties of the Police or the department of State or that constable, officer, or employee; or*
    - (ii) *kept solely or principally for the purposes of herding or driving stock; or*

- (iii) kept by the Department of Conservation or any officer or employee of that department solely or principally for the purposes of carrying out the functions, duties, and powers of that department; or
- (iv) kept solely or principally for the purposes of destroying pests or pest agents under any pest management plan under the Biosecurity Act 1993; or
- (iva) kept by the Department of Corrections or any officer or employee of that department solely or principally for the purposes of carrying out the functions, duties, and powers of that department; or
- (ivb) kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of that service solely or principally for the purposes of carrying out the functions, duties, and powers of that service; or
- (ivc) certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002; or
- (v) owned by a property guard as defined in section 9 of the Private Security Personnel and Private Investigators Act 2010 or a property guard employee as defined in section 17 of that Act, and kept solely or principally for the purpose of doing the things specified in section 9(1)(a) to (c) of that Act; or
- (vi) declared by resolution of the territorial authority to be a working dog for the purposes of this Act, or any dog of a class so declared by the authority, being a dog owned by any class of persons specified in the resolution and kept solely or principally for the purposes specified in the resolution.

**Zone parking** has the same meaning as in [Land Transport Rule: Traffic Control Devices 2004](#).

*Explanatory note*

- According to Part 2 of the Land Transport Rule: Traffic Control Devices 2004, zone parking in relation to a road, means a parking restriction imposed by the road controlling authority:
  - (a) that applies to an area comprising a number of roads; and
  - (b) in respect of which persons using vehicles within the area could reasonably be expected to be aware of the application of the parking restriction to the area without the need for the erection of signs at each intersection within the area, for reasons including:
    - (i) the nature of the area; or
    - (ii) the nature of the parking restriction; or
    - (iii) traffic patterns into and within the area; or
    - (iv) the nature and number of entry points to the area; and
  - (c) that the controlling authority specifically declares to be a zone parking control.

**1.6 Explanatory notes**

- 1.6.1 Explanatory notes are for information purposes only and do not form part of the Consolidated Bylaw.
- 1.6.2 Explanatory notes may be made, revoked, amended, or replaced by the Council at any time.

**1.7 Fees**

- 1.7.1 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 from, or inspection by, the Council under the Consolidated Bylaw.

**1.8 Licences, permits, consents and approvals**

- 1.8.1 The form of any application for and grant of any permission, licence, or approval required under the Consolidated Bylaw will be determined by the Council.

- 1.8.2 An application for a licence must be made in writing on the appropriate form provided by the Council (if any), contain all the required information, and be lodged with the appropriate fee (if any).
- 1.8.3 The Council may attach to any permission, approval, or licence any terms or conditions it thinks fit.
- 1.8.4 The licence holder must comply with conditions of the licence.
- 1.8.5 An application for a licence does not confer any right, authority, or immunity on the person making the application until the application has been processed and the licence has been granted.
- 1.8.6 The Council may revoke or suspend a licence granted under the Consolidated Bylaw if it reasonably believes the licence holder has acted or is acting in breach of the licence, or is unfit in any way to hold the licence.
- 1.8.7 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 the licence holder does not attend the hearing or after the hearing, the Council is satisfied the licence holder has been in breach of the licence or is unfit to hold the licence.
- 1.8.8 Unless otherwise stated elsewhere in the Consolidated Bylaw, no licence, permit, consent or approval issued to a person named in that licence, permit, consent or approval is transferable to any other person.
- 1.8.9 The Council may suspend any licence granted under the Consolidated 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.
- 1.8.10 The Council may suspend any licence for the purposes of protecting the public from nuisance or for protecting, promoting or maintaining public health and safety.
- 1.8.11 Any person aggrieved by the decision of the Council on any application may, within five working days of notice of the decision, request the Council in writing to review the decision and the Council will do so as soon as it is reasonably able. The licence and all conditions imposed will remain in effect pending completion of the review.

## **1.9 Dispensing powers**

- 1.9.1 Where in the opinion of the Council full compliance with the provisions of the Consolidated Bylaw would needlessly or injuriously affect any person or the operation of any business, or bring loss or inconvenience to any person without any corresponding benefit to the community, the Council may, on the special application of that person, dispense with the full compliance with the provisions of this Consolidated Bylaw, provided that any other terms or conditions that the Council imposes must be complied with by that person.

## **1.10 Serving of orders and notices**

- 1.10.1 The Council may give notices to any person in breach of the Consolidated Bylaw to carry out any remedial action to comply with the provisions of the Consolidated Bylaw.
- 1.10.2 Any order or notice issued will state the time within which the remedial action is to be carried out, and may be extended from time to time by written authority of an authorised officer.
- 1.10.3 Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person for the purposes of the Consolidated Bylaw, service may be effected by delivering it personally to the person or by sending it by post to that person's last known residential or business address.
- 1.10.4 If the person is absent from New Zealand, the order, notice, or other document may be served on the person's agent in the manner referred to in 1.10.2.

1.10.5 If the order, notice, or other document relates to land or buildings, then the order, notice, or other document should be served on the person who owns that land or buildings. However, if that person is not known or is absent from New Zealand, or has no known agent in New Zealand, the order or notice may be served on the person who is occupying the land or buildings, or if there is no person in occupation, put up on some conspicuous part of the land or buildings. It is not necessary in that notice to name the occupier or the owner of that land or buildings.

### **1.11 Offences and breaches**

1.11.1 Any person commits a breach of the Consolidated Bylaw who:

- (a) Does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by the Consolidated Bylaw.
- (b) Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by that person at the time and in the manner provided by the Consolidated Bylaw.
- (c) Does not refrain from doing anything which under the Consolidated Bylaw they are required to abstain from doing.
- (d) Knowingly permits or suffers any condition of or things to exist contrary to any provision contained in the Consolidated Bylaw.
- (e) Refuses or neglects to comply with any notice given to that person under the Consolidated Bylaw.
- (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer under the Consolidated Bylaw.
- (g) Fails to comply with any notice or direction given under the Consolidated Bylaw.

1.11.2 Where it is suspected that any person has committed a breach of the Consolidated Bylaw, that person must, on the direction of an authorised officer, provide their full name and address.

### **1.12 Penalties for breach of bylaw**

1.12.1 Every person who commits an offence against this Consolidated Bylaw is liable to:

- (a) The penalty set out in the Local Government Act 2002.
- (b) Where another enactment specifies the penalty for a breach of the Consolidated Bylaw, that other penalty.

1.12.2 In accordance with the Local Government Act 2002, the Council may apply to the District Court for an injunction to restrain a person from committing a breach of the Consolidated Bylaw.

### **1.13 Removal of works**

1.13.1 The Council, or any authorised officer or agent of the Council, may remove or alter any work or thing that is in contravention of any provision of the Consolidated Bylaw.

1.13.2 The Council may recover any costs incurred in exercising clause 1.13.2 from any person responsible for constructing or permitting the continued existence of any work or thing in contravention of the Consolidated Bylaw.

1.13.3 The exercise of clause 1.13.2 does not relieve any person from liability for any penalty for erecting or permitting the continued existence of any work or thing that is in contravention of any provision of the Consolidated Bylaw.



1.13.4 On payment of all Council's costs, including storage where applicable, the lawful owner may claim any work or thing removed under clause 1.13.1.

1.13.5 If not claimed within a reasonable time, the Council may dispose of any work or thing as it sees fit and apply the proceeds to meet any outstanding costs. The lawful owner will be entitled to claim any residual sum.

**1.14 Compliance**

1.14.1 Nothing in the Consolidated Bylaw relieves any person from the obligation to comply with the requirements of any other bylaws, legislation, or regulations.

## **Part 2. Amenity**

### **2.1 Title**

2.1.1 This is Part 2 Amenity of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **2.2 Purpose**

2.2.1 The purpose of Part 2 Amenity is to maintain and enhance the amenity values of the Ōpōtiki district and protect the public from nuisance.

### **2.3 Definitions**

2.3.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **2.4 Assessment of amenity**

2.4.1 Amenity will be assessed taking into account the general character and maintenance of the neighbourhood and the environmental area in which the property is located and/or adjoins.

### **2.5 Property maintenance**

2.5.1 A person must not allow any material or thing to be deposited, accumulated, used, processed or stored on any private property under their control in a manner that detracts from amenity or causes or may cause a nuisance.

2.5.2 A person must not allow any property under their control to become so overgrown with vegetation that it causes or may cause a nuisance.

2.5.3 The owner of any building that is vacant or abandoned, in the opinion of an authorised officer, must ensure that the building is secured so as not to allow access by the public.

2.5.4 The owner of any building in the Town Centre Zone must ensure that it is maintained to a standard considered to comply with clause 2.4.1.

2.5.5 Buildings will be considered not to comply with clause 2.4.1 if they show significant signs of disrepair, for example fading paintwork, plaster chipping, tagging and/or mould or algae growth.

### **Part 3. Public Places**

#### **3.1 Title**

3.1.1 This is Part 3 Public Places of the Ōpōtiki District Council Consolidated Bylaw 2019.

#### **3.2 Purpose**

3.2.1 The purpose of Part 3 Public Places is to:

- (a) Protect the public from nuisance, protect, promote and maintain public health and safety, and minimise the potential for offensive behaviour in public places.
- (b) Manage and protect the land and structures under Council control from damage or misuse.
- (c) Regulate the display of street names and the identification and numbers of premises.

#### **3.3 Definitions**

3.3.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

#### **3.4 Public safety and nuisances**

3.4.1 A person must not set off fireworks or explosive material in a public place, except with the prior written permission of the Council or an authorised officer.

3.4.2 A person must not use any object, including wheeled recreational devices or mobility devices, in a public place in a way that causes a nuisance, endangers public health and safety, or damages the public place.

3.4.3 A person must not ride or use a skateboard, roller skates, rollerblades, or other similar wheeled recreational device in a public place in any area defined in Schedule 1 of Part 3 Public Places.

3.4.4 The Council may amend Schedule 1 by publicity notified resolution to add, delete, or change the areas where the prohibition in clause 3.4.3 applies.

3.4.5 The Council will install signs to indicate the areas where the prohibition in clause 3.4.3 is in force.

3.4.6 A person must not deposit household, business, or trade refuse in or around a public litter receptacle.

3.4.7 Except with the prior written permission of the Council or an authorised officer, a person must not in any public place:

- (a) Solicit any subscription, collection or donation.
- (b) Provide a public performance.
- (c) Use any loud speaker or other broadcast system or similar device.
- (d) Distribute printed or written material advertising any product, service, or entertainment.

#### **3.5 Obstructing or damaging public places**

3.5.1 Except with the prior written permission of the Council or an authorised officer, and in accordance with any conditions that may be required, a person must not:

- (a) Work on any vehicle in any public place, except in the case of an accident or emergency when immediate repairs are necessary to allow the vehicle to be removed.
- (b) Park or use any machinery, equipment, materials, or waste disposal bins on any road or public place.
- (c) Allow vegetation from land they own or occupy to encroach onto any public place in a way that endangers public health and safety or obstructs the free movement of people

in that public place. At the discretion of an authorised officer, any vegetation referred to in this clause 3.5.1(c) may be partly or fully removed, or trimmed back to the property boundary.

- (d) Disturb or remove any naturally occurring material found in a public place, including rock, soil, or vegetation.
- (e) Use any vehicle, including parking a vehicle, in a way that damages any part of a public place.
- (f) Organise or take part in any assembly (including parades or processions) or combine with other persons in a public place in a way that impedes pedestrian or vehicular traffic or obstructs access to any shops or premises facing onto any public place.

### **3.6 Buildings and structures**

3.6.1 Except with the prior written permission of the Council or an authorised officer, or where provided for in the District Plan, or where permitted by any other part of the Consolidated Bylaw or a reserve management plan, a person must not:

- (a) Erect or place any building or structure on, over or under any public place.
- (b) Put any obstruction or projection of any kind, including veranda, projecting window, balcony, wall, lamp, doorstep, cellar door, signboard, window shutter, gate post, or other of any kind in such a position as to interfere with the free passage of pedestrians or traffic in any public place.
- (c) Allow surplus water to fall from any building or other structure upon any public place.
- (d) Omit or neglect to secure and maintain the foundations of any building or any wall or fence, or cause or permit any encroachment by any building, wall, or fence abutting on any public place in a way that the public may be harmed or obstructed.
- (e) Mix concrete or carry out any other work upon any public place so as to deface or obstruct such public place.
- (f) Fail to keep in good repair any rail, gate, fence, or cover over any area or entrance or lighting place to any cellar, or any other place opening into, on, or over any public place.
- (g) Keep open any cellar or other place for more than a reasonable time for taking articles in and out, or omit to protect the entrance when open for use.

### **3.7 Fencing**

3.7.1 Where a hazard to public safety exists next to a public place, the Council may give written notice to require the owner or occupier of the hazardous land to construct a fence, or retaining wall to protect the public from that hazard.

3.7.2 Where an existing fence or wall next to a public place is in unsafe condition, the Council may give written notice to require the owner or occupier to repair or remove the fence or wall to make it safe.

3.7.3 Except with the prior written permission of the Council, a person must not erect any barbed wire along or within one metre of any boundary of a public place unless it is at least two metres above the ground level of the public place.

3.7.4 A person must not erect any electrified fencing on a boundary adjoining a public place in any area zoned Residential or Town Centre under the District Plan.

3.7.5 Clauses 3.7.3 and 3.7.4 do not apply in any area zoned Rural, Coastal, Coastal Settlement or Ōhiwa Harbour under the District Plan, except when the fence is next to a public footpath.

### **3.8 Vehicular crossings**

3.8.1 Any person who wishes to construct a new vehicle access or modify an existing vehicle access must obtain written permission from the Council and pay the prescribed fee.

The Council will grant permission under clause 3.8.1 subject to any conditions considered necessary to ensure the safe and convenient use of the road by pedestrians and vehicles and protect the road (including any footpath or berm) adjacent to the vehicle access from damage.

3.8.2 Any new vehicle access must be constructed in accordance with the specifications and policy set by the Council and at the full cost of the applicant.

3.8.3 If in the opinion of the Council or an authorised officer, any vehicle crossing is unsafe, the Council or an authorised officer may by written notice require the owner or occupier of the land the crossing provides access to, to repair or reconstruct the crossing to the Council's satisfaction.

### **3.9 Naming of streets**

3.9.1 A person must not give any name to or affix, set up, or paint any name on any street, private street, or public place without the prior written permission of the Council.

3.9.2 The Council may cause to be painted or affixed on a conspicuous part of some house or building the name of the road, private road, or public place to which it has frontage.

#### *Explanatory note*

- *Road naming should be in accordance with Council's road naming policy, which will ensure an effective and consistent approach to the naming and addressing of roads for emergency services, postal services, and the general public. The road naming policy is available on Council's website at [www.odc.govt.nz](http://www.odc.govt.nz).*

### **3.10 Numbering of properties and buildings**

3.10.1 Notwithstanding that building or property is identified by other means, the owner or occupier of every property or building must mark the building or property with numbers not less than 50mm in height for residential buildings and not less than 150mm in height for all other buildings.

3.10.2 Numbers will be allocated or approved by an authorised officer and displayed in a position that is readily visible from any road fronted by the building or property.

3.10.3 Numbers required by clause 3.10.1 must be maintained by the owner or occupier in a manner that clearly identifies the property.

3.10.4 The Council may alter the number of any property or building when in the Council's opinion it is necessary or advisable to do so.

3.10.5 In the case of rural properties, numbers will be allocated as approved by an authorised officer of the Council and on payment of any prescribed fee. The number standards approved by Council are:

- (a) Size of character: 110 mm on 225 mm backing plate
- (b) Colour of character: Reflective red
- (c) Colour of backing plate: Non-reflective white

3.10.6 Rural numbers must be installed by the property owner and should be maintained and displayed in a position that is readily visible from any road fronted by the building or property.

**Schedule 1 of Part 3: Skateboarding prohibited area**

3.10.7 The use of skateboards or other similar wheeled recreational device is prohibited in the section of Church Street, Ōpōtiki located between Kelly Street and Richard Street, Ōpōtiki.

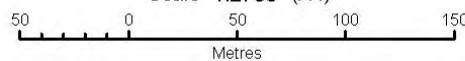
Map 1: Skateboarding prohibited area in Ōpōtiki town centre



**SKATE BOARDING PROHIBITED AREA**

Church Street, Opotiki

Scale 1:2750 (A4)



**DRAFT 5/07/2019**

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Sheet 1 of 1

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## **Part 4. Beaches**

### **4.1 Title**

4.1.1 This is Part 4 Beaches of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **4.2 Purpose**

4.2.1 The purpose of Part 4 Beaches is to control activities on beaches to:

- (a) Protect the public from nuisance.
- (b) Protect, promote, and maintain public health and safety.
- (c) Minimise the potential for offensive behaviour.
- (d) Protect beaches from damage.

#### *Explanatory note*

- *The jurisdiction of Ōpōtiki District Council extends to mean low water springs (MLWS). Refer to the Bay of Plenty Regional Navigation Safety Bylaw 2017 for provisions regarding safety on the water.*

### **4.3 Definitions**

4.3.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **4.4 Aircraft**

4.4.1 Except with the written permission of the Council or an authorised officer and provided all other applicable statutory requirements are complied with, a person must not land or attempt to land on the beach or water or take off or attempt to take off from the beach or water any aircraft, except in the case of an emergency.

### **4.5 Vehicle prohibited areas**

4.5.1 The Council may by publicly notified resolution declare any part of the beach to be a vehicle prohibited area.

4.5.2 A person must not take or drive any vehicle in a vehicle prohibited area, other than for surf lifesaving operations, emergency situations, law enforcement activities, or coastal conservation management activities.

4.5.3 Schedule 1 of Part 4 Beaches identifies vehicle prohibited areas

### **4.6 Vehicle permitted areas**

4.6.1 Vehicles are permitted on beaches that are not identified in Schedule 1 of Part 4 as vehicle prohibited areas, or in any known dotterel areas.

#### *Explanatory note:*

- *Dotterel areas are not fixed locations, and change depending on various ecological factors. The maps provided in Schedule 1 of Part 4 of the Bylaws which show **Dotterel Areas**, are indicative only. Ōpōtiki District Council will physically demarcate known dotterel areas on beaches in Ōpōtiki district, subject to best known available information, and the physically demarcated areas will be vehicle prohibited areas.*

4.6.2 The following conditions apply in vehicle permitted areas:

- (a) Vehicles must be driven at a maximum speed of 15 kilometres per hour.
- (b) Vehicles must not be driven in a manner that endangers public health or safety, or causes a nuisance to any other person.

- (c) Vehicles must enter and exit the beach only from Council approved designated entry and exit points.
  - (d) Vehicles must be driven only within the area between the tidal wash line at mean high water springs and mean low water springs.
  - (e) Vehicles must not be driven on the beach sand dune areas, or on any area set aside for coastal vegetation, rehabilitation or conservation.
  - (f) Vehicles must give way to people, dogs, and horses at all times.
- 4.6.3 A person must not leave any vehicle or trailer other than on a portion of the beach designated by the Council for the parking of vehicles or trailers, or above the high water mark but not on the sand dune, coastal vegetation, rehabilitation or conservation areas, and where the parked vehicle or trailer will not cause an inconvenience or safety hazard to beach users.
- 4.6.4 The requirements of clause 4.6.1 apply to any authorised vehicles driven in a vehicle prohibited or vehicle restricted area.
- 4.6.5 Except with the prior written permission of the Council or an authorised officer or in an emergency, a person must not leave any vessel on any part of any beach for more than 24 hours.

#### **4.7 Motorcycle prohibited areas**

- 4.7.1 Motorcycles are prohibited on all beaches in Ōpōtiki district.

##### *Explanatory notes*

- *Vehicle prohibited areas are those identified in Schedule 4, and known demarcated dotterel areas.*
- *Motorcycle has the same meaning as in the Land Transport Act 1998. According to section 2 of the Land Transport Act 1998, 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 Agency; but does not include a moped.*
- *Vehicle access restrictions do not apply to land adjacent to beaches and the foreshore that is held in private title.*
- *The clauses prohibiting or restricting the use of vehicles on beaches are made under section 22AB(1)(f) of the Land Transport Act 1998.*
- *Infringement offences and fines for contravening a bylaw made under the Land Transport Act 1998 are set in the Land Transport (Offences and Penalties) Regulations 1999.*

#### **4.8 Control of animals**

- 4.8.1 A person must not bring a horse or other animal (excluding dogs) or allow any horse or other animal (excluding dogs) in his or her control into or on:
- (a) Any area where endangered birds are nesting, including known demarcated dotterel areas.
  - (b) Any designated conservation area.
  - (c) Any coastal vegetation or rehabilitation area.
  - (d) The sand dunes.
- 4.8.2 Any person riding, driving, or leading a horse must enter and exit the beach using designated and/or formed access ways.



- 4.8.3 Where any horse or other animal is found on any beach in contravention of Part 4 Beaches, it may be seized and impounded by any person duly authorised by the Council.

*Explanatory notes*

- *Part 8 Animal Control contains specific rules about animals in public places and horse riding, including areas where horses are not permitted.*
- *Part 9 Dog Control includes rules and restrictions about where people can take their dogs.*

**4.9 Life saving**

- 4.9.1 The Council may authorise any life saving club:

- (a) To provide and use on any beach, life saving equipment to the approved standards of Surf Life Saving New Zealand.
- (b) To use any such equipment provided by the Council.
- (c) To erect, place, or remove on any beach any danger notices or signs requiring or prohibiting swimming within specified areas of the beach as necessary.

- 4.9.2 A person must not interfere with, remove, destroy or damage any lifebuoy or lifesaving apparatus erected, maintained, or otherwise authorised by the Council on any part of the beach.

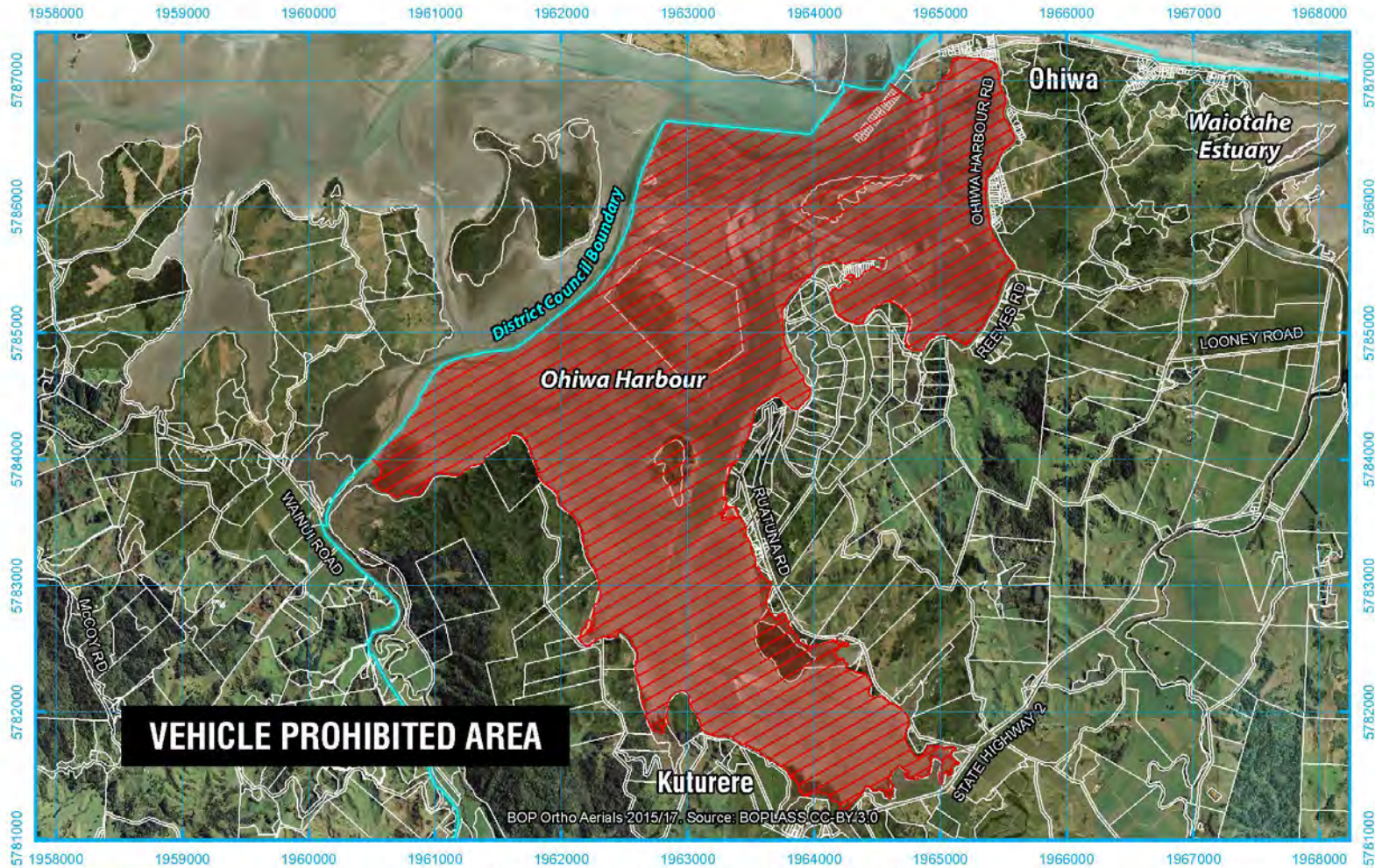
- 4.9.3 A person must not obstruct or interfere with any life saving operation or drill.

**4.10 Hiring of craft**

- 4.10.1 The Council may authorise, subject to any required conditions and fees, the use of any defined part of the beach for hiring, storing, launching, and recovery of particular types of waterborne craft made available for public hire, and may issue a licence to any person for the carrying out of one or more of those activities.

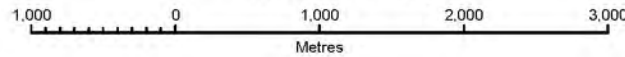
**Schedule 1 of Part 4: Vehicle prohibited areas**

Map 1: Ōhiwa Harbour Vehicle Prohibited Area



**SCHEDULE ONE - VEHICLE PROHIBITED AREA**  
Ohiwa Harbour, Opotiki District

Scale 1:40000 (A4)

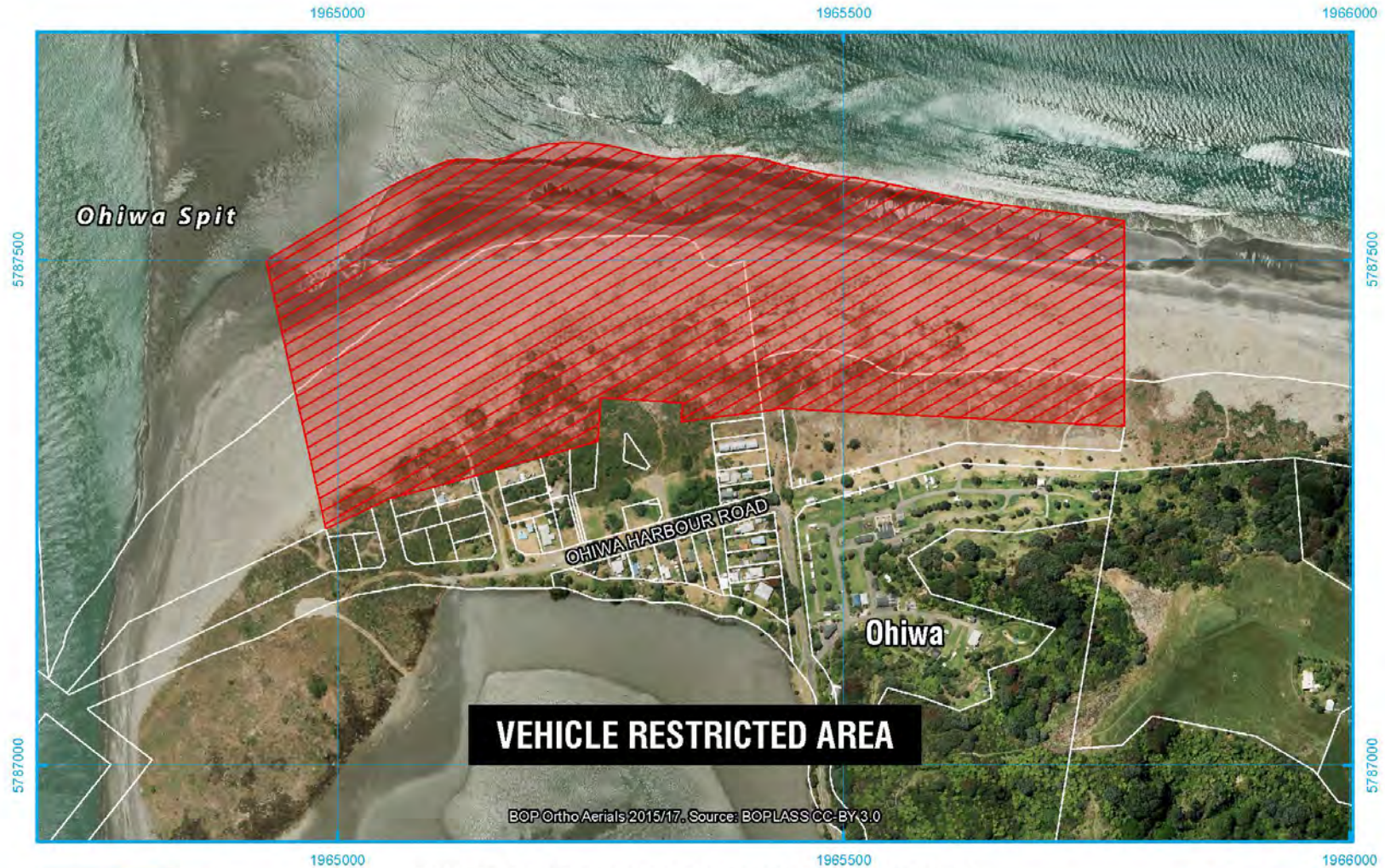


**DRAFT 7/08/2020**

GSP-592237  
Sheet 1 of 1  
Printed 7/08/2020



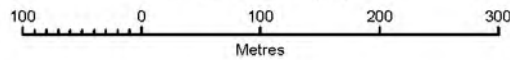
Map 2: Ōhiwa Beach Vehicle Prohibited Area



SCHEDULE TWO - VEHICLE RESTRICTED AREA

Ōhiwa Spit, Ōpōtiki District

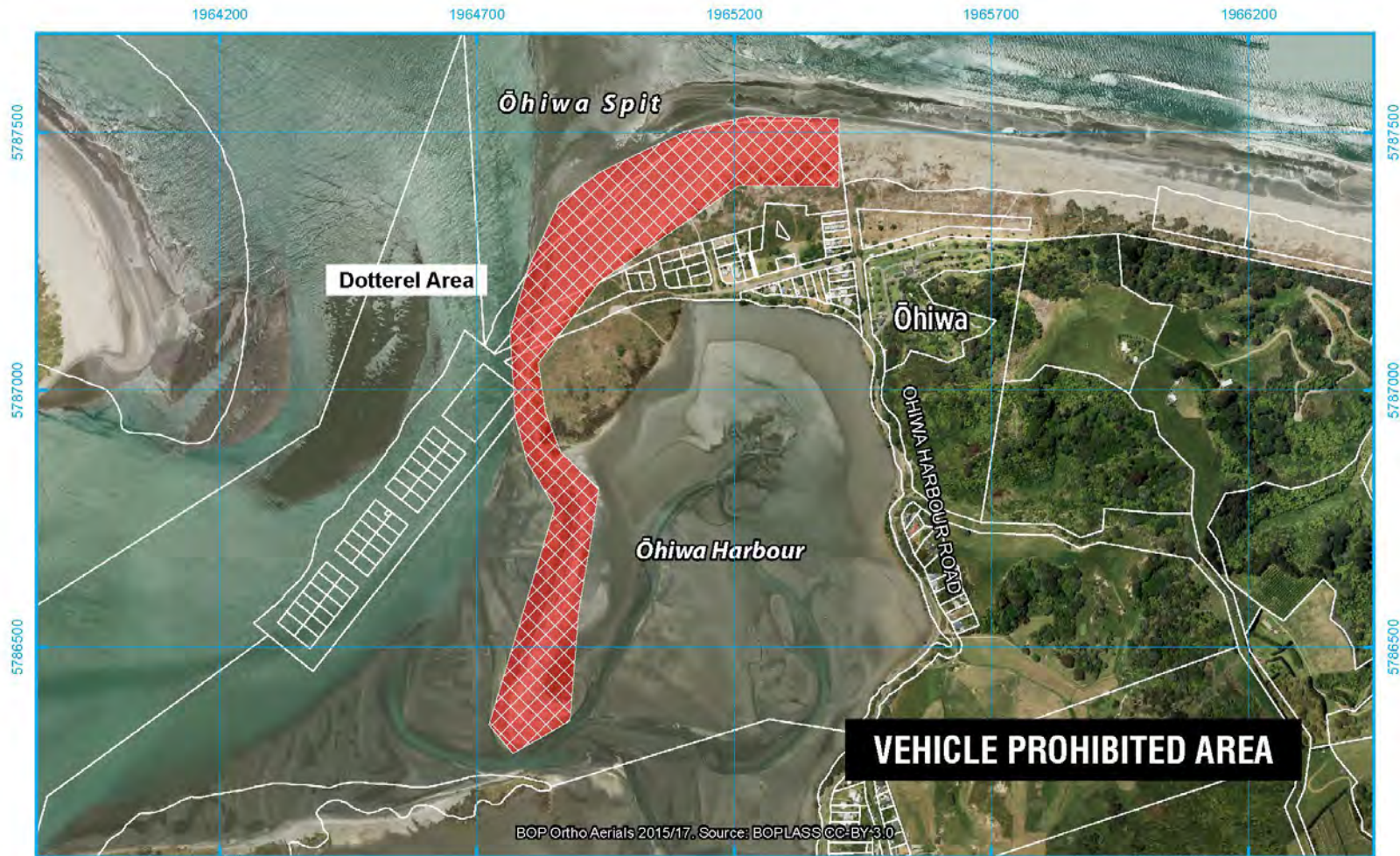
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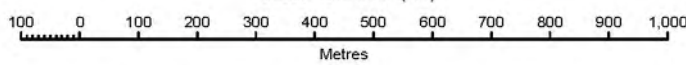
**DRAFT 7/08/2020**

GSP-592237  
Sheet 1 of 1  
Printed 7/08/2020

Map 3: Ōhiwa Spit Vehicle Prohibited Area



**VEHICLE PROHIBITED AREA**  
Ōhiwa Spit, Ōpōtiki District  
Scale 1:10000 (A4)



**DRAFT 7/07/2020**

GSP-592237  
Sheet 1 of 1  
Printed 7/07/2020

Map 4: Waiōtahe Estuary Vehicle Prohibited Area



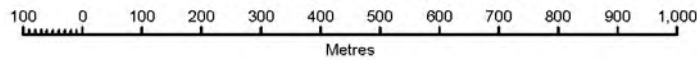
BOP Ortho Aerials 2015/17. Source: BOPLASS CC-BY 3.0



### SCHEDULE ONE - VEHICLE PROHIBITED AREA

Waiōtahe Estuary, Opotiki District

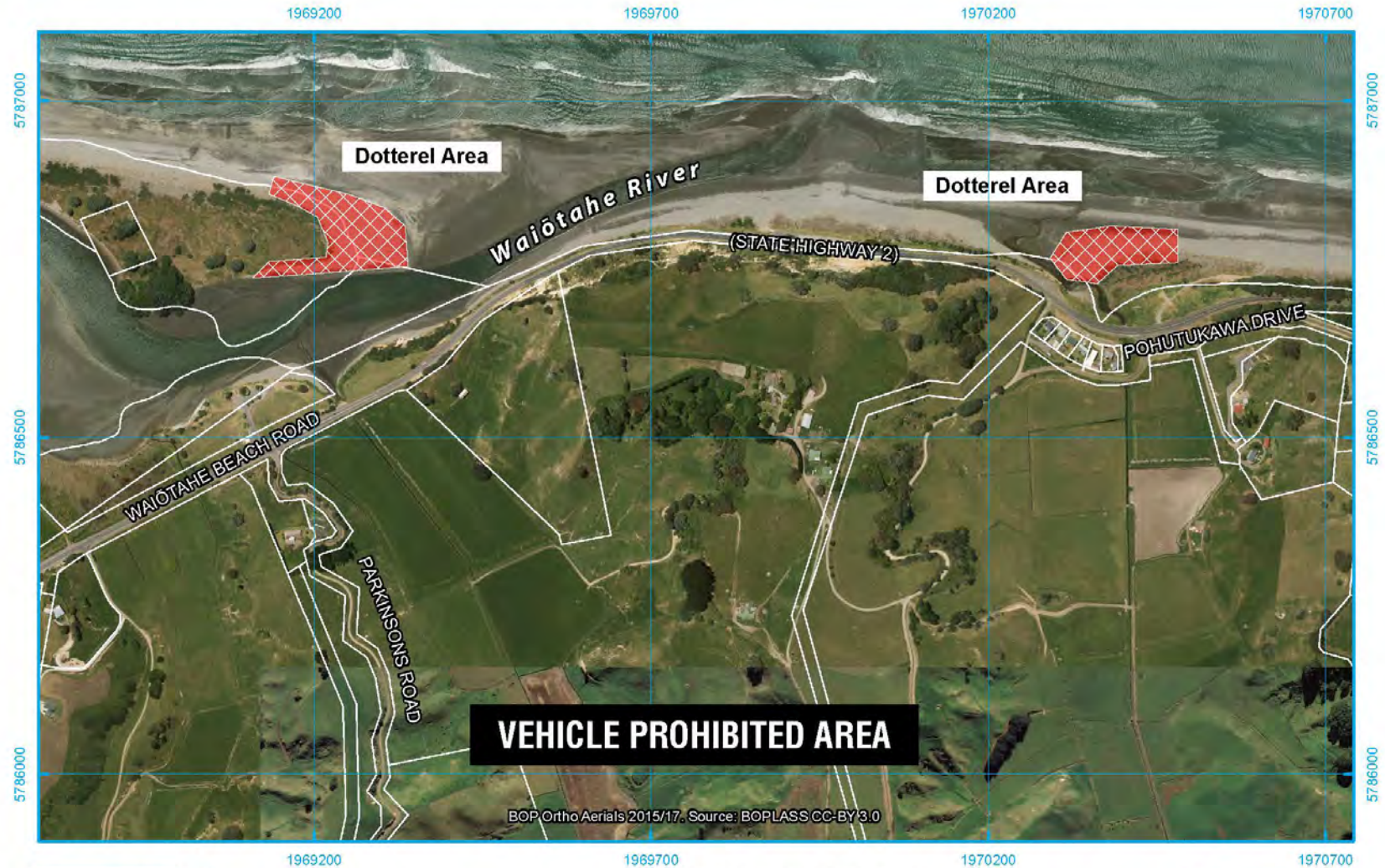
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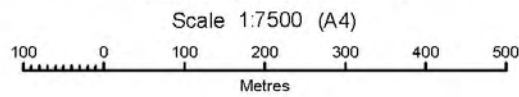
**DRAFT 7/08/2020**

GSP-592237  
Sheet 1 of 1  
Printed 7/08/2020

Map 5: Waiōtahe Spit Vehicle Prohibited Area



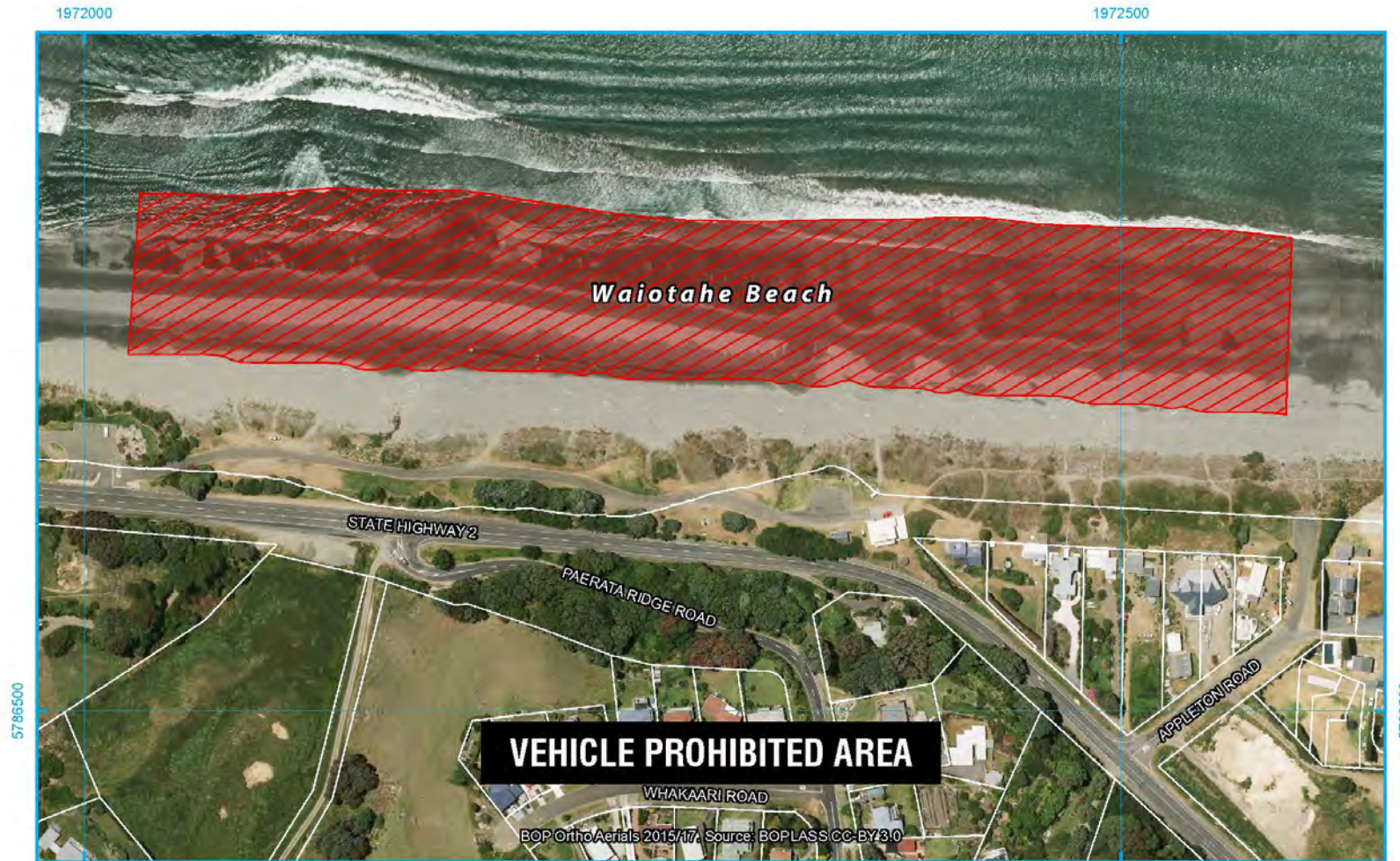
**VEHICLE PROHIBITED AREA**  
Waiōtahe Spit, Opōtiki District



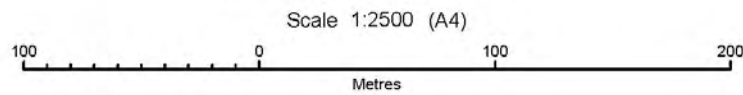
**DRAFT 7/07/2020**

GSP-592237  
Sheet 1 of 1  
Printed 7/07/2020

Map 6: Waiōtahe Beach Vehicle Prohibited Area



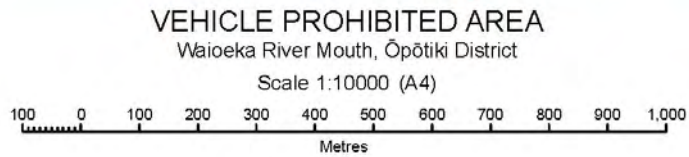
**SCHEDULE ONE - VEHICLE PROHIBITED AREA**  
Waiōtahe Beach, Opotiki District



**DRAFT 7/08/2020**

GSP-592237  
Sheet 1 of 1  
Printed 7/08/2020

Map 7: Waioeka River Vehicle Prohibited Area

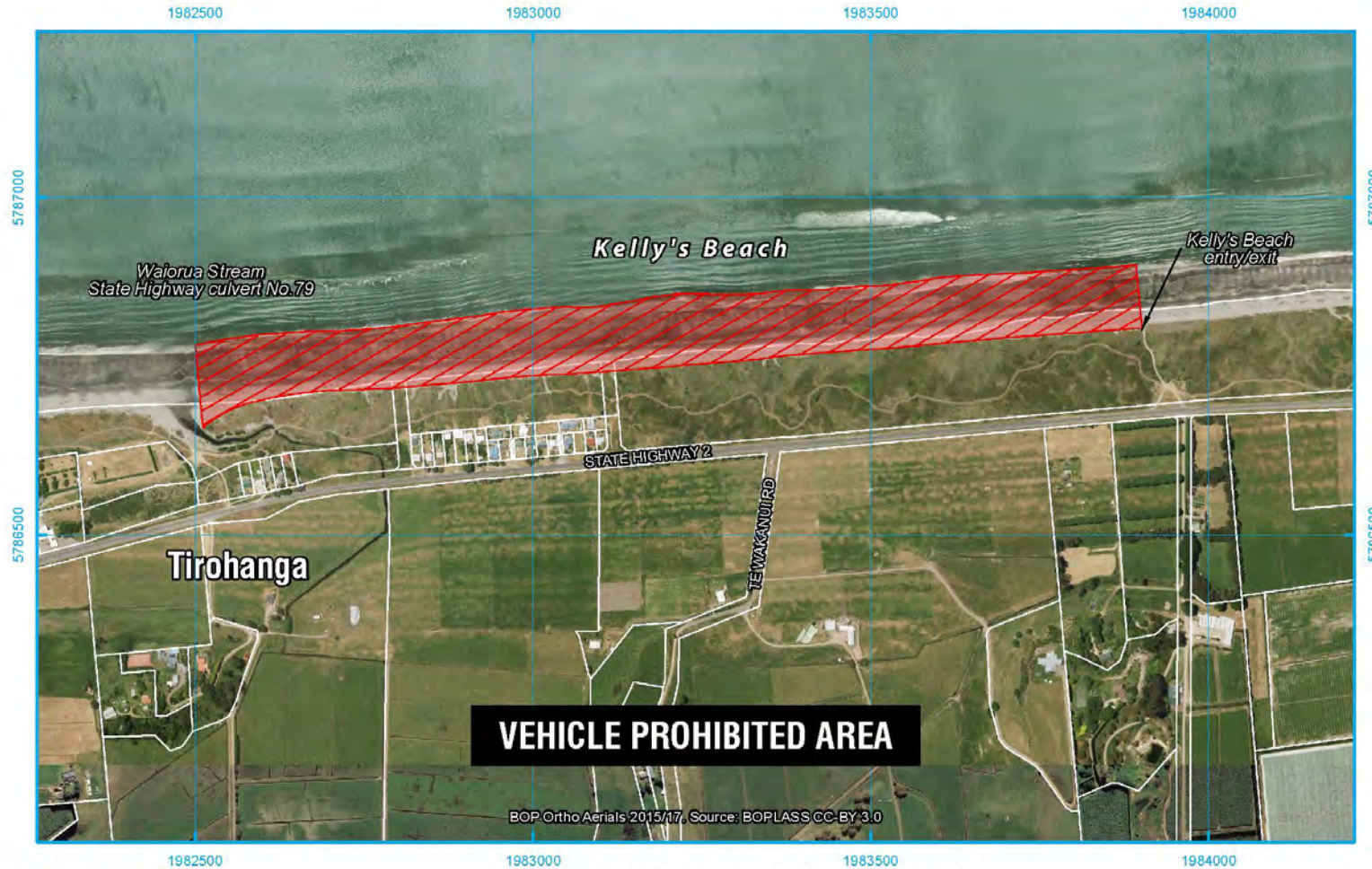


**DRAFT 7/07/2020**

GSP-592237  
Sheet 1 of 1  
Printed 7/07/2020

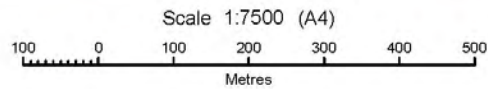


Map 8: Tirohanga Beach Vehicle Prohibited Area



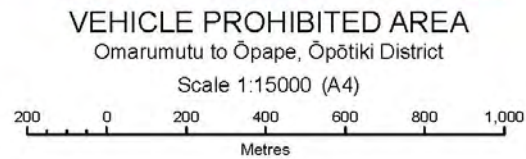
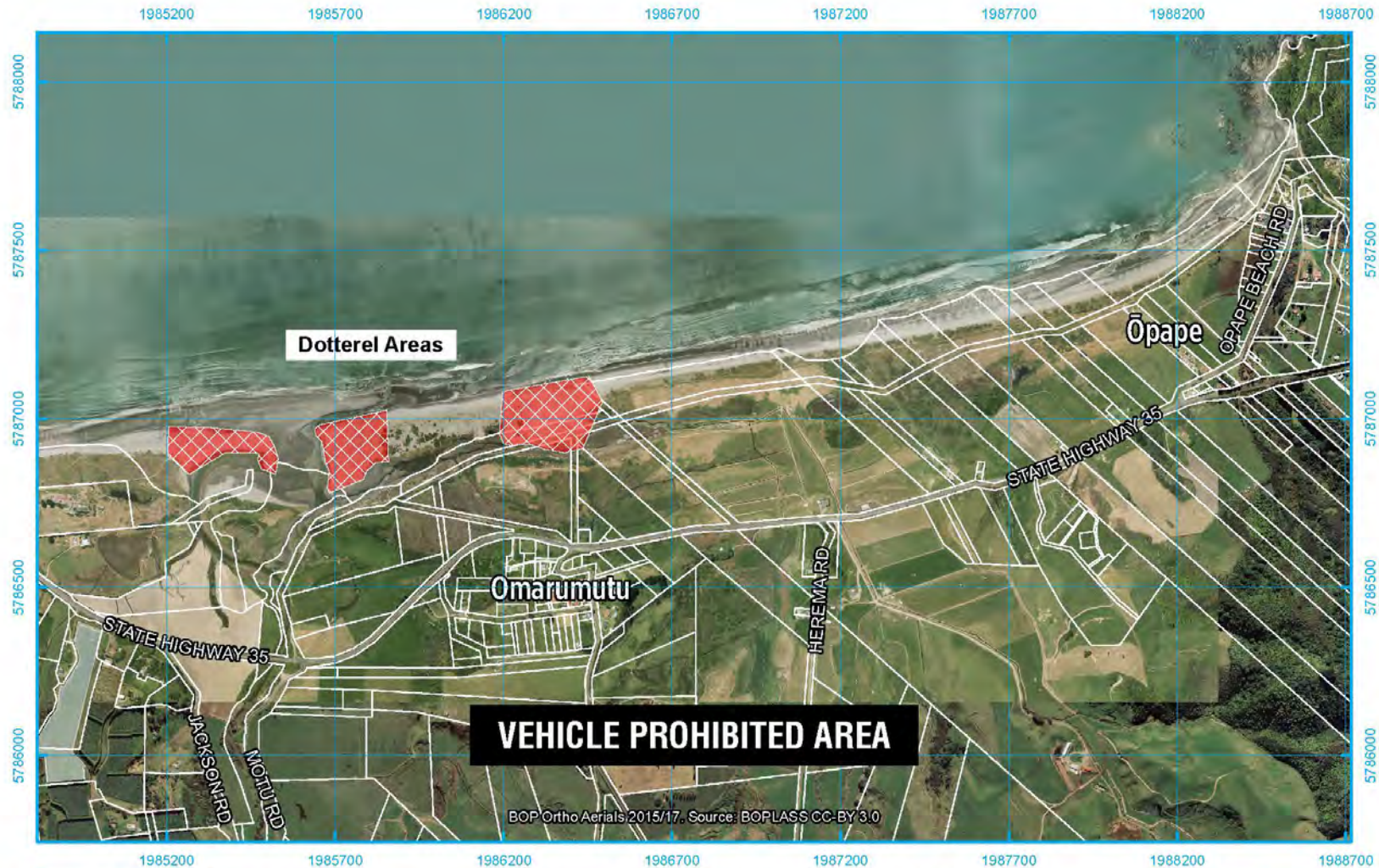
**SCHEDULE ONE - VEHICLE PROHIBITED AREA**  
Tirohanga, Opotiki District

**DRAFT 7/08/2020**



GSP-592237  
Sheet 1 of 1  
Printed 7/08/2020

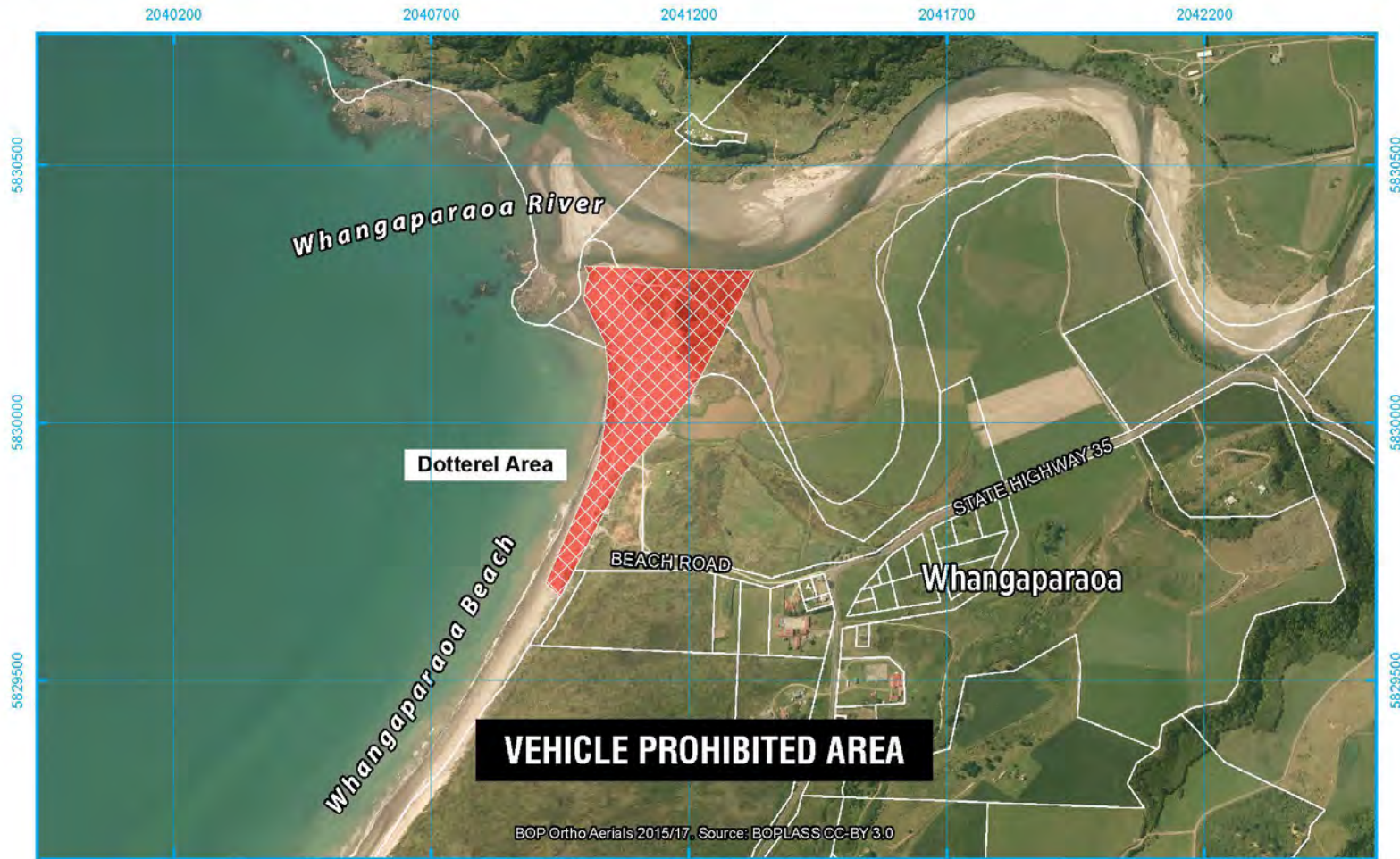
Map 9: Omarumutu to Ōpape Vehicle Prohibited Area



**DRAFT 7/07/2020**

GSP-592237  
 Sheet 1 of 1  
 Printed 7/07/2020

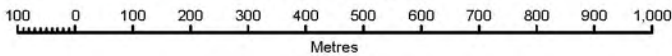
Map 10: Whangaparaoa Vehicle Prohibited Area



**VEHICLE PROHIBITED AREAS**

Whangaparaoa Beach, Ōpōtiki District

Scale 1:10000 (A4)



**DRAFT 7/07/2020**

GSP-592237  
Sheet 1 of 1  
Printed 7/07/2020

## **Part 5. Cemeteries**

### **5.1 Title**

5.1.1 This is Part 5 Cemeteries of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **5.2 Purpose**

5.2.1 The purpose of Part 5 Cemeteries is to regulate the use of cemeteries and in particular to provide for the purchase of plots, interment, erection of structures, and the maintenance of cemeteries.

5.2.2 Part 5 Cemeteries applies to all cemeteries within the Ōpōtiki District Council's control but excludes Urupa (Māori burial grounds).

5.2.3 Part 5 Cemeteries is made in accordance with the Local Government Act 2002 and the Burial and Cremation Act 1964.

#### *Explanatory note*

- *Nothing in Part 5 Cemeteries derogates from any provisions of, or the necessity for compliance with, the:*
  - (a) *Burial and Cremation Act 1964.*
  - (b) *Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967.*
  - (c) *Health (Burial) Regulations 1964.*
  - (d) *Cremation Regulations 1973.*

### **5.3 Definitions**

5.3.1 Refer to Part 1 Introduction for definitions.

### **5.4 Right of burial**

5.4.1 Any person may acquire the right of burial in a plot in any cemetery by applying to the Council, paying the prescribed fee and complying with all conditions imposed by the Council.

### **5.5 Transfer of right of burial**

5.5.1 A person who has purchased the right of burial in any plot must not transfer or assign such right to any person other than a parent, spouse, partner, or child of the purchaser and then only subject to the Council's approval and on payment of any applicable transfer fee.

### **5.6 Procedures for burial**

5.6.1 Only the sexton or person authorised by the Council may dig a grave.

5.6.2 No burial will take place in any cemetery without the production of a burial warrant obtained from the Council. No warrant will be issued unless the right of burial in respect of the plot concerned has been purchased.

5.6.3 The burial warrant must be delivered to the sexton or authorised officer no less than eight working hours before the time fixed for the burial and will be sufficient authority for the sexton to proceed with the burial of the person named on the warrant.

### **5.7 Time of burials and unveiling ceremonies**

5.7.1 Except pursuant to section 86 of the Health Act 1956 which relates to the burial of people who have died from an infectious and/or notifiable disease, burials may take place during daylight hours on any day of the week and on public holidays (excluding Christmas Day and Good Friday).

5.7.2 Unveiling ceremonies may take place only with the Council's permission and may only be held during daylight hours on any day.

## **5.8 Burial depth**

- 5.8.1 All graves for the burial of children must be at least 1.5 metres deep and all other graves must be at least 1.8 metres deep.
- 5.8.2 Subject to the Council's approval, a second body may be buried in the same plot if requested by the holder of the right of burial or the immediate family and provided there will be at least 1.2 metres of covering at the average surface level of the ground over the last coffin buried.
- 5.8.3 A burial warrant may be issued to authorise the burial of any urn, containing the ashes of any deceased person, in any plot provided the right to burial in that plot has been purchased.

## **5.9 Disinterment**

- 5.9.1 Where an application for a disinterment is received by the Council, the disinterment will be conducted in accordance with sections 51 and 55 of the Burial and Cremation Act 1964 or any other applicable legislation, subject to the payment of such fees as contained within the Council's fees and charges.

## **5.10 Records**

- 5.10.1 Every plot in each cemetery will be identified by a number which will be recorded on plans kept in the Council offices.
- 5.10.2 A permanent cemetery register will be kept of all plots for which rights of burial or ashes interment have been purchased, together with the name of the purchaser, the date of purchase, the amount paid for such purchase, and the names and dates of interment of any persons buried in such plots.
- 5.10.3 The plans and cemetery register will be open for inspection during ordinary working hours.
- 5.10.4 The Council will endeavour to give the correct boundaries of any plot or plots when selling the right of burial therein, but will not be liable to the purchaser for any error subsequently found, whether as to survey or otherwise; and the Council will not be bound to point out the limits of any plot for which the right of burial has been so purchased.

## **5.11 Monuments**

- 5.11.1 A person must not erect any memorial or other structure in or on any plot in any cemetery, unless the right of burial in that plot has been purchased and the appropriate application form has been completed and approved.
- 5.11.2 A person must not construct, erect, or place any tablet or monument or any fence, kerb, or other enclosure, or any vault, or other covering over a grave or plot in any cemetery unless the proposed structure meets the New Zealand Standard NZS 4242:2018 Headstones and cemetery monuments.
- 5.11.3 All foundations for tombstones, headstones, monuments, fences and kerbs must be placed and laid to the satisfaction of the Council.
- 5.11.4 All tombstones, headstones, monuments, fences and kerbs must be kept in proper order and repair by the owner of the plot or his or her representatives and any which have fallen into a state of decay or disrepair may be dealt with by the Council in accordance with the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967.
- 5.11.5 A person must not, without the written authority of the Council:
  - (a) Remove from any cemetery, or from any grave, any headstone, kerb, monument or tablet.
  - (b) Remove or take from any cemetery or from any grave, except for the purpose of tidying the same, any vase, wreath, plant, flower or any other article.

- (c) Disturb or damage any vegetation in the cemetery, including flowers, trees, shrubs, or plants.
- (d) Plant, cut down, or destroy any tree or shrub in any cemetery.
- (e) Except at the time of interment, place on any plot any wreath or floral tribute, whether natural or artificial, provided however that natural cut flowers or artificial imitations thereof may at any time be placed on any plot, in a receptacle, approved and located to the satisfaction of the Council.

### **5.12 Maintenance of plots**

- 5.12.1 The Council will maintain any plot or grave in any cemetery for such period as the Council may determine to be the useful life of the cemetery for cemetery purposes.
- 5.12.2 The fee for the purchase of a plot in any cemetery will include an amount as prescribed by the Council for the maintenance of such plot for the period as determined by the Council in accordance with clause 5.12.1.

### **5.13 Use of vehicles**

- 5.13.1 A person must not, except with the written permission of the Council or an authorised officer:
  - (a) Take any vehicle into any cemetery during the hours of darkness.
  - (b) Permit any vehicle under his or her control to remain in any cemetery during the hours of darkness.
  - (c) Drive any vehicle on any part of the cemetery except on the roads open for vehicular traffic.
  - (d) Drive or conduct any vehicle in any cemetery at any speed greater than 20 kilometres an hour.
  - (e) Drive or conduct any vehicle in any cemetery except in the direction indicated by traffic notices.
  - (f) Park any vehicle in any cemetery except in conformity with the directions of any sexton, traffic officer, police officer or other authorised officer, or in accordance with the terms of any traffic sign or notice exhibited in the cemetery.
- 5.13.2 Every person driving or conducting any vehicle in any cemetery must stop or move such vehicle in accordance with the directions of any sexton, traffic officer, police officer, or other authorised officer.
- 5.13.3 All vehicles must yield unconditional right of way to any funeral procession in any cemetery.

### **5.14 Conduct in cemeteries**

- 5.14.1 A person must not, in or near any part of any cemetery:
  - (a) By any violent, improper or objectionable behaviour, prevent, interrupt, delay or disturb any funeral or burial service or proceedings.
  - (b) Behave in a manner that creates a nuisance or is offensive to any other person.
  - (c) Remain in the cemetery during the hours of darkness except with the prior written approval of the sexton or any other authorised officer.
  - (d) Allow any animal, other than any disability assist dog, to accompany him or her into any cemetery.
  - (e) Take any photograph or video recording at any funeral for the purposes of sale or publication, without the permission of the funeral party concerned.

- (f) Advertise or solicit any order or custom from any other person for any work whatsoever to be done in or in connection with any cemetery, or for the sale, preparation, or supply of any article, material or item to be set up, affixed, placed, or used in any cemetery.
- (g) Deface, damage, or interfere with any monument or grave.
- (h) Take part in any gathering other than for the purpose of a religious or other ceremony of a burial or memorial unveiling.

5.14.2 Except at the specific request of a purchaser of plots or their representatives, a person must not, in any cemetery accept or take any such order or custom as referred to in clause 5.14.1(f).

## **5.15 Designated lawn cemetery areas**

5.15.1 Plots in the lawn cemetery areas will be 2.7 metres by 1.2 metres if intended for an adult burial and 1.9 metres by 1 metre if intended for a child burial.

5.15.2 In those parts of any cemetery designated as lawn cemetery, the following provisions apply:

- (a) Graves must not be enclosed with any railing or kerbing.
- (b) No headstone, monument, cross, marker or memorial may be placed on any grave except a memorial plaque or tablet that complies fully with the Council specifications for plaques in lawn cemeteries.
- (c) Fourteen days after the date of interment, the Council may remove from any grave any article, including flowers and wreaths, and cause the surface of the grave to be levelled off and sown down in grass.
- (d) After any grave has been levelled and sown, artificial or natural cut flowers or foliage may be placed on the concrete berm.
- (e) The Council or an authorised officer has the discretion to remove and destroy any thing or item on any grave, if the thing or item contravenes clause 5.15.2(d) or any artificial or natural cut flowers or foliage have become unsightly, or any receptacle has been damaged.
- (f) Any other article removed by the Council or an authorised officer will be retained by the Council for a period of one month to await the disposal instructions of the next of kin or representative of the deceased. If no instructions for the disposal of the article are received by the Council within the time limit prescribed, the article may be destroyed or disposed of by an authorised officer of the Council, and the Council and its officers will be under no liability to any person in respect of such removal destruction or disposal.

5.15.3 Only Council employees or people authorised in writing by the Council may carry out any maintenance or other work in the designated lawn cemetery area.

5.15.4 All plaques or tablets intended to be placed on any grave in the designated lawn cemetery area must, with the appropriate base, be supplied and delivered at the graveside by and at the cost of the owner and will be placed in position as approved by the Council.

## **5.16 Garden of remembrance**

5.16.1 Any garden of remembrance must be used only for the scattering of the ashes of cremated human remains. In such part of any cemetery designated as a Garden of Remembrance, the following provisions apply:

- (a) Ashes may be scattered in the areas so defined or as permitted by an authorised officer of the Council and an appropriate record may be entered in the Book of Remembrance.

- (b) Ashes may be interred around the kerbed perimeter of the garden. A plaque and receptacle for flowers may be affixed.
- (c) The plaque must be affixed to the face of the kerb and the receptacle to the rear of the ash plaque, at the direction of the Council.
- (d) Any flowers which may have become unsightly may be removed and destroyed by the sexton and the Council and its officers are not liable to any person in respect of such removal and destruction.
- (e) The planting of shrubs is not permitted inside the Garden of Remembrance.

**5.17 Memorial cemetery areas**

- 5.17.1 No fences, kerbings, or monuments other than headstones may be erected, or trees, shrubs or flowers planted. No ornaments may be suspended or attached to any vegetation or other structure in any cemetery.
- 5.17.2 The Council will construct or cause to be constructed a continuous concrete platform or berm at or near ground level, of a width suitable to maintain stability, on which base or platform the foundation work for all memorials will be placed. The cost of the platform will be included in the purchase price of the plot.
- 5.17.3 No vaults or brick or walled-in graves above ground may be constructed in any cemetery except in such position as may be set aside for that purpose by the Council subject to the engineering and aesthetic specifications of the Council.



## **Part 6. Control of Signs**

### **6.1 Title**

6.1.1 This is Part 6 Control of Signs of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **6.2 Purpose**

6.2.1 The purpose of Part 6 Control of Signs is to ensure that signs are erected, maintained and displayed so that they do not present a hazard or a danger to public safety.

#### *Explanatory note*

- *Part 6 Control of Signs should be read in conjunction with the operative Ōpōtiki District Plan.*

### **6.3 Exclusions**

6.3.1 Part 6 Control of Signs does not apply to traffic, direction, information and naming signs erected by or with the approval of Council, signs indicating hazardous substances used at a hazardous facility, or signs erected pursuant to any statute or regulation.

6.3.2 Part 6 Control of Signs does not apply to signs that require a resource consent and does not affect any conditions placed on signs under a resource consent.

6.3.3 Part 6 Control of Signs does not apply to signs that have been constructed, maintained or displayed on or over any part of a state highway with the consent of the New Zealand Transport Agency in accordance with the relevant New Zealand Transport Agency bylaw.

### **6.4 Definitions**

6.4.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **6.5 General requirements for signs**

6.5.1 A person must not:

- (a) Display or erect any sign in, on, over, or visible from a public place that does not comply with Part 6 Control of Signs or any provisions in the District Plan, except where:
  - (i) Any of the exclusions in clauses 6.3.1, 6.3.2, or 6.3.3 apply.
  - (ii) An exemption to the requirements of Part 6 Control of Signs has been granted by the Chief Executive or an authorised officer.
  - (iii) The sign is exempted by clause 6.19.
- (b) Place any poster on any building or structure without the permission of the owner or occupier of that building or structure, unless it is on a designated poster board.
- (c) Attach any sign to any tree.
- (d) Place, or allow to remain in place, any sign that explicitly or implicitly:
  - (i) Is discriminatory or advocates discrimination based on one or more of the prohibited grounds of discrimination set out in the Human Rights Act 1993.
  - (ii) Is objectionable within the meaning of the Films, Videos and Publications Classification Act 1993.
  - (iii) Is offensive, threatening, or insulting.
  - (iv) Incites or counsels any persons to commit any offence.
  - (v) Is in breach of any other part of Ōpōtiki District Council Consolidated Bylaw 2019.

### **6.6 Signs on or over roads, footpaths and public places**

6.6.1 Except as otherwise provided by Part 6 Control of Signs, a person must not place any sign on, or projecting over, any road, private street, or public place without the prior written

permission of the Chief Executive or an authorised officer (or the New Zealand Transport Agency in the case of state highways) has been obtained.

- 6.6.2 Signs located on verandas over roads or public places on land zoned Town Centre in the District Plan must be in accordance with the District Plan provisions and:
- (a) Be no closer than 2.4 metres to the footpath measured from beneath the sign.
  - (b) If below the veranda, be set back at least 600mm from an imaginary vertical line from the veranda fascia to the footpath below.
  - (c) Advertise only the business, services and products located on the same site as the sign.
- 6.6.3 The Council may erect or approve display boards in any public place for displaying posters announcing upcoming events.
- 6.6.4 Any poster displayed according to clause 6.6.3 must be removed within five days of the advertised event concluding.

### **6.7 Signs affecting traffic safety**

- 6.7.1 Signs that are visible from a state highway must be in accordance with the provisions of the Operative District Plan.
- 6.7.2 A sign must not be placed or allowed to remain where, in the opinion of the Chief Executive or an authorised officer (or the New Zealand Transport Agency in the case of state highways), that sign would:
- (a) Obstruct the line of sight of any corner, bend, intersection, vehicle crossing, traffic sign, or traffic signal.
  - (b) Distract unduly or be likely to distract unduly the attention of road users.
  - (c) Resemble or be likely to be confused with any traffic sign or signal.
  - (d) Give rise to excessive levels of glare, use reflective materials or flashing or revolving lights that may interfere with a road user's vision.
  - (e) Invite drivers to turn so close to a turning point that there is no time to signal and turn safely.
  - (f) Constitute or be likely to constitute in any way a danger to road users.

### **6.8 General requirements for construction and maintenance of signs**

- 6.8.1 The sign owner and the owner of the land or building where the sign is placed must ensure that all signs and their supporting structures are constructed, fixed, placed, and maintained in a manner that they do not pose a danger to property or the public.
- 6.8.2 The sign owner must obtain any necessary building consent for the proposed sign before the sign is erected.

#### *Explanatory note*

- According to Schedule 1 of the [Building Act 2004](#), the following is exempt from requiring a building consent:  
*Building work in connection with a sign (whether free-standing or attached to a structure) and any structural support of the sign if:*
  - (a) no face of the sign exceeds 6 square metres in surface area; and
  - (b) the top of the sign does not exceed 3 metres in height above the supporting ground level.

## **6.9 Lighting of signs**

- 6.9.1 Subject to clauses 6.9.2 and 6.9.3, an illuminated sign must not produce more than 1000 candelas per square metre (cds/m<sup>2</sup>) for signage areas less than 10 square metres and no more than 800 cds/m<sup>2</sup> for signage areas equal to or greater than 10 square metres.
- 6.9.2 An illuminated sign in the rural zone must not produce more than 600 cds/m<sup>2</sup> for signage areas less than 10 square metres, and 400 cds/m<sup>2</sup> for signage areas equal to or greater than 10 square metres.
- 6.9.3 Any sign with the face at a 90° axis to the road or within 20 metres of a road and 20° of either side of a driver's line of sight, or at road intersections, must conform to the lower luminance levels required for rural areas.
- 6.9.4 With the exception of neon signs, the lighting filament used to light any sign must not be visible from ground level except where approved by an authorised officer.

## **6.10 Banners over public places**

- 6.10.1 The maximum area of any banner flown over a public place must not exceed 21 square metres.
- 6.10.2 A banner must be at least 5 metres above ground level, at least 6 metres from any intersection and 10 metres from any pedestrian crossing when it extends over a road.
- 6.10.3 A banner must have reinforced corners with appropriate eyelets to allow the fixing of ropes or cables.
- 6.10.4 A banner must be constructed to withstand wind gusts.
- 6.10.5 Except with the permission of the Chief Executive or an authorised officer, no banner spanning across a road may be displayed for more than 14 days before and 48 hours after the event that is being advertised.

## **6.11 Signs for class 4 gambling venues**

- 6.11.1 Signs advertising any class 4 venue or electronic gaming machines must not:
- (a) Be sandwich boards.
  - (b) Exceed 1 metre by 0.3 metres (or equivalent surface area) in size.
  - (c) Be illuminated by flashing lights or contain neon.
  - (d) Be visible from any residential zone as defined in the District Plan.
  - (e) Use the word "casino".
- 6.11.2 Signs advertising prize money must not be visible from the exterior of any class 4 venue.

## **6.12 Signs for central government and local body elections**

- 6.12.1 The maximum size for election signs is 3 square metres.
- 6.12.2 Election signs will only be permitted on private land and the owner's consent is required.
- 6.12.3 Election signs are not permitted on Council owned or Council controlled land or roads.
- 6.12.4 Election signs must be sited so that they do not cause any obstruction to, or restrict the vision of, vehicle operators.
- 6.12.5 Election signs must not be erected within 6 metres of an intersection or on a roundabout.
- 6.12.6 The Council retains the right to require any election sign to be moved or removed due to clause 6.12.4 above.
- 6.12.7 Election signs must not be erected more than 9 weeks prior to polling day.
- 6.12.8 Election signs must be removed the day before polling day.

### **6.13 Signs on vehicles and trailers**

- 6.13.1 Except with the written permission of the Chief Executive or an authorised officer, a person must not display any sign on a vehicle or trailer, whether stationary or moving on a road, where the primary function of that vehicle or trailer is to display advertising material.

### **6.14 Temporary signs**

- 6.14.1 Except with the written permission of the Chief Executive or an authorised officer, temporary signs advertising a forthcoming sporting, community, or cultural event are restricted to one sign with a maximum area of 1.8 square metres located on the site of the forthcoming event.
- 6.14.2 Except with the written permission of the Chief Executive or an authorised officer, temporary signs must not be attached to poles, fences, street furniture, or other public utilities on any public place.
- 6.14.3 Except with the written permission of the Chief Executive or an authorised officer, a person must not display any temporary sign for:
- (a) More than 3 months in any 12 month period.
  - (b) More than 2 days following completion of the event to which the sign relates, except in the case of a sign advertising land or premises for sale, auction or lease.

### **6.15 Real estate signs**

- 6.15.1 Temporary signs advertising the sale of land or premises on which the sign is situated must be restricted to one sign for each real estate agency involved in the sale with a maximum area of 1 square metre per sign, or 2 square metres if there is a sole agency, which must be located on the site to be sold.
- 6.15.2 A person must not display any temporary sign advertising land or premises for sale, auction, or lease after the date when the purchaser or lessee takes possession of that land or premises, or the date of settlement, whichever is earlier.

### **6.16 Blimps and balloons**

- 6.16.1 Advertising blimps or balloons must not be flown:
- (a) More than 40 metres above the ground.
  - (b) Within a 5 kilometre radius of any aerodrome.
  - (c) Outside of daylight hours.
  - (d) When wind speeds exceed 25 kilometres per hour.
  - (e) Above or immediately adjacent to any state highway.

### **6.17 Sandwich boards**

- 6.17.1 The maximum size for sandwich board signs is 600mm wide and 1,000mm high.
- 6.17.2 Except with the written consent of the Council or an authorised officer, only one sandwich board sign is allowed per business.
- 6.17.3 Each business must place their sign in front of the premises as close to the front of the footpath as possible.

### **6.18 Ladder boards**

- 6.18.1 The Chief Executive or an authorised officer may approve the placement of permanent ladder boards on the public footpath containing advertising for two or more separate businesses in replacement of sandwich boards. If a ladder board is available then sandwich boards must not be used. The maximum size of ladder boards is 1,500mm high by 600mm wide unless otherwise approved by the Chief Executive or an authorised officer.

## **6.19 Exemptions**

- 6.19.1 Where a sign lawfully existed before Part 6 Control of Signs coming in to force, but does not comply with the requirements of Part 6 Control of Signs, it may remain in place and be repaired, altered, or maintained, provided that work does not increase its physical size or the extent of its non-compliance.
- 6.19.2 A sign that does not comply with the requirements of Part 6 Control of Signs and is not a sign referred to in clause 6.19.1 must be removed or otherwise made to comply within six months of Part 6 Control of Signs coming into force.
- 6.19.3 A person may apply in writing to the Council for an exemption from the requirements of Part 6 Control of Signs. Situations where an exemption may be granted (with any conditions considered appropriate in the circumstances) include but are not limited to:
- (a) The sign is in substantial compliance and further compliance is unnecessary.
  - (b) A requirement is unreasonable or impractical in the particular case.
  - (c) Events have occurred that make compliance with a requirement unnecessary or inappropriate in the particular case.

## **6.20 Repair, alteration or removal of signs**

- 6.20.1 If any sign does not comply with the provisions of Part 6 Control of Signs, the Chief Executive or an authorised officer may, by notice in writing, require the owner of the sign or the owner, occupier, or lessee of any land on which the sign located, to repair, alter, or remove the sign within a period stated in the notice.
- 6.20.2 Where any person has been requested to repair alter or remove any sign, the repaired, altered, or any replacement sign must comply with Part 6 Control of Signs.
- 6.20.3 Where any person fails to comply with any notice given under clause 6.20.1, an authorised officer may have the sign repaired, altered, or removed. The cost incurred in repairing, altering, or removing the sign will be recoverable as a debt against the owner of the sign or the owner of the land on or over which the sign was placed.
- 6.20.4 Any sign located on land owned or controlled by the Council that does not comply with the provisions of Part 6 Control of Signs may be removed by an authorised officer without notice to the owner of the sign.
- 6.20.5 Any sign removed by an authorised officer will be released to the owner of the sign upon payment of the costs incurred in its removal and storage.
- 6.20.6 Any sign that remains unclaimed for a period exceeding one month or is not released for a period exceeding one month may be sold or otherwise disposed of by the Council.

## **Part 7. Alcohol Control**

### **7.1 Title**

7.1.1 This is Part 7 Alcohol Control of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **7.2 Purpose**

7.2.1 The purpose of Part 7 Alcohol Control is to control the possession and consumption of alcohol in specified public places to reduce alcohol related harm.

### **7.3 Definitions**

7.3.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **7.4 Prohibited acts in alcohol ban areas**

7.4.1 A person must not consume, bring into, or possess alcohol in a public place (including in a vehicle) in the alcohol ban areas described in schedule 1 of Part 7 Alcohol Control and any additional permanent or temporary alcohol ban areas declared by the Council under clause 7.5.2(b).

#### *Explanatory notes*

- *Part 7 Alcohol Control does not apply to areas or activities covered by a licence issued under the Sale and Supply of Alcohol Act 2012.*
- *As per section 147(4) of the Local Government Act 2002, Part 7 Alcohol Control does not prohibit, regulate, or control, in the case of alcohol in an unopened container:*
  - (a) the transport of the alcohol from licensed premises next to a public place, if:
    - (i) it was lawfully bought on those premises for consumption off those premises; and*
    - (ii) it is promptly removed from the public place; or**
  - (b) the transport of the alcohol from outside a public place for delivery to licensed premises next to the public place; or*
  - (c) the transport of the alcohol from outside a public place to premises next to a public place by, or for delivery to, a resident of the premises or his or her bona fide visitors; or*
  - (d) the transport of the alcohol from premises next to a public place to a place outside the public place if:
    - (i) the transport is undertaken by a resident of those premises; and*
    - (ii) the alcohol is promptly removed from the public place.**

### **7.5 Council resolutions**

7.5.1 Any person may apply to Council in writing for permission for an activity that would be in breach of Part 7 Alcohol Control.

7.5.2 The Council may by resolution:

- (a) Amend alcohol ban areas specified in schedule 1 of Part 7 Alcohol Control.
- (b) Declare additional permanent or temporary alcohol ban areas.
- (c) Waive a prohibition under clause 7.4.1 for certain specified times and/or in certain specified public places for special events.

7.5.3 All resolutions under clause 7.5.2 will be publicly notified at least 14 days before taking effect.

*Explanatory notes*

- *In accordance with section 147B of the Local Government Act 2002, before making under section 151 a resolution relating to a bylaw under section 147, the Council must be satisfied that:
  - (a) *there is evidence that the area to which the bylaw applies (or will apply by virtue of the resolution) has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and*
  - (b) *the bylaw, as applied by the resolution,—
    - (i) *is appropriate and proportionate in the light of the evidence; and*
    - (ii) *can be justified as a reasonable limitation on people's rights and freedoms.***

**7.6 Signage**

- 7.6.1 The Council will erect signs in public places covered by Part 7 Alcohol Control to provide information on the terms of the bylaw. The size, location, and terms of signage is at Council's discretion.
- 7.6.2 To avoid any doubt, the absence of signs in any public place does not authorise breach of Part 7 Alcohol Control.

**7.7 Enforcement**

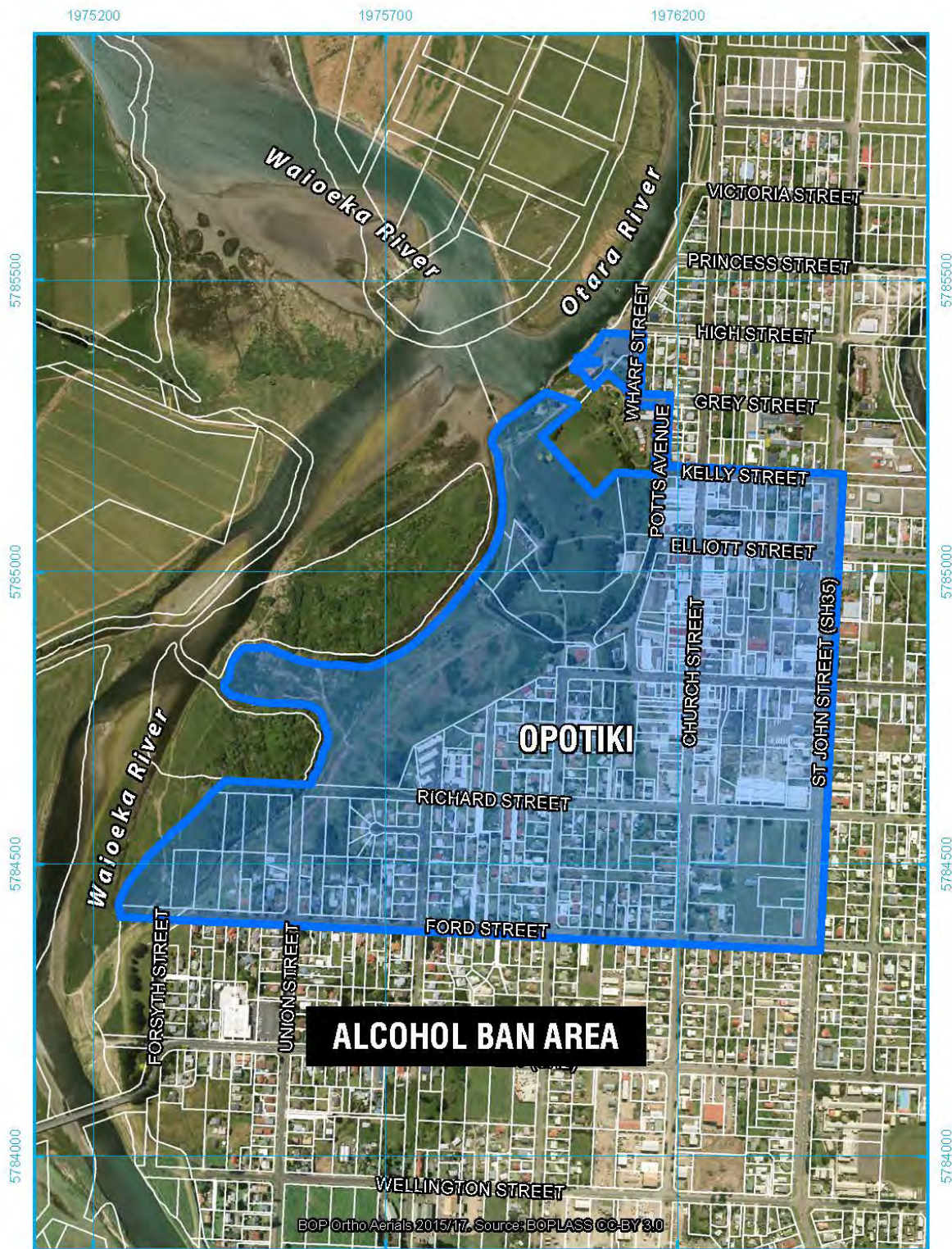
- 7.7.1 Part 7 Alcohol Control authorises members of the Police to enforce exercise the powers of arrest, search, and seizure under sections 169 and 170 of the Local Government Act 2002.

*Explanatory notes*

- *Section 170(2) provides constables with additional powers of search in relation to temporary alcohol controls that have been notified and indicated by signs in accordance with section 170(3) of the [Local Government Act 2002](#).*
- *The penalty for breaching an alcohol ban is an infringement fee of \$250 under the Local Government (Alcohol Ban Breaches) Regulations 2013.*

**Schedule 1 of Part 7: Alcohol ban areas**

Map 1: Extent of Alcohol Control Bylaw in Ōpōtiki Town Centre



**ALCOHOL BAN AREA**  
 Ōpōtiki Town Centre, Ōpōtiki  
 Scale 1:8500 (A4)  
 100 0 100 200 300 400 500  
 Metres

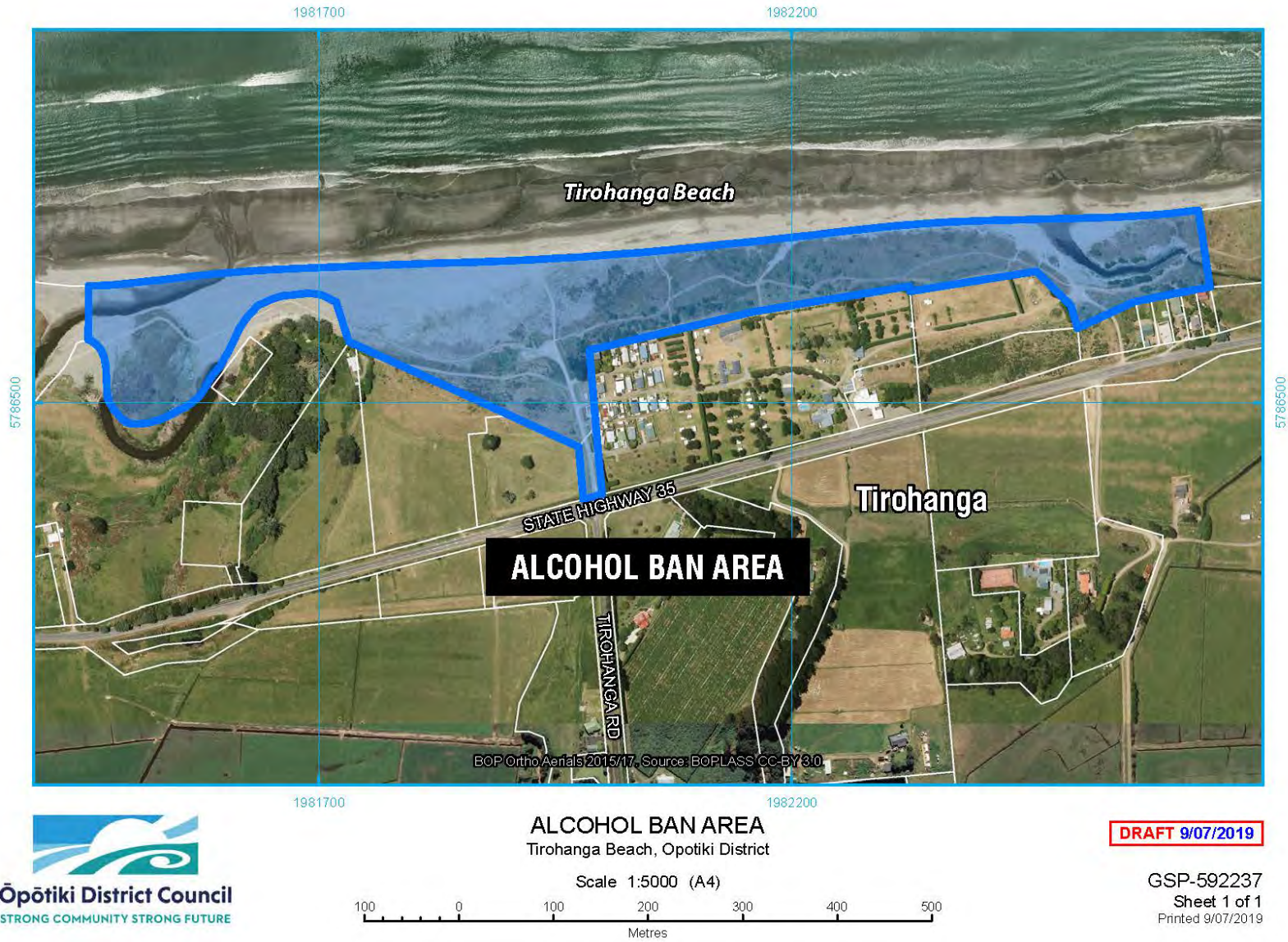
**DRAFT 9/07/2019**

GSP-592237  
 Sheet 1 of 1  
 Printed 9/07/2019

An alcohol ban is in place 24 hours a day, seven days a week in all public places indicated on map 1.

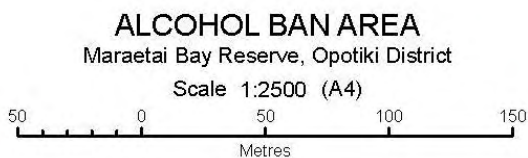


Map 2: Extent of Alcohol Control Bylaw in Tirohanga Beach



An alcohol ban is in place from 12 am on 26 December until midnight on 7 January in all public places indicated on map 2.

Map 3: Extent of Alcohol Control Bylaw in Maraetai Bay Reserve



**DRAFT 9/07/2019**

GSP-592237  
Sheet 1 of 1  
Printed 9/07/2019

An alcohol ban is in place from 12 am on 26 December until midnight on 7 January in all public places indicated on map 3.

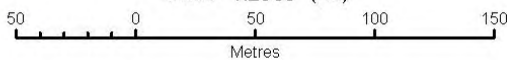
Map 4: Extent of Alcohol Control Bylaw in Te Kaha



### ALCOHOL BAN AREA

Te Kaha, Opotiki District

Scale 1:2500 (A4)



2012200

**DRAFT 9/07/2019**

GSP-592237

Sheet 1 of 1

Printed 9/07/2019

An alcohol ban is in place 24 hours a day, seven days a week in all public places indicated on map 4.

The alcohol ban area includes the car park in front of Te Kaha Beach Resort, which is owned by Ōpōtiki District Council, and extends from Te Kaha Hotel Road to State Highway 35, Te Kaha.

## **Part 8. Animal Control**

### **8.1 Title**

8.1.1 This part is Part 8 Animal Control of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **8.2 Purpose**

8.2.1 The purpose of Part 8 Animal Control is to regulate the keeping of animals including stock, poultry, and bees, movement of stock, and horse riding in public places to protect the public from nuisance and protect, promote, and maintain public health and safety.

#### *Explanatory notes*

- Refer to Part 9 Dog Control for matters relating to control of dogs.
- Part 8 Animal Control is not intended to duplicate obligations in legislation that affects animals including (but not limited to) the [Animal Products Act 1999](#), [Animal Welfare Act 1999](#) and related codes of welfare, [Biosecurity Act 1993](#), [Reserves Act 1977](#), [Impounding Act 1955](#), [Health Act 1956](#), [Resource Management Act 1991](#), [Building Act 2004](#), and [reserve management plans](#).

### **8.3 Definitions**

8.3.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **8.4 Keeping of animals and stock**

8.4.1 The owner or person responsible for any animal must:

- (a) Ensure the animal is not kept in a manner that creates a nuisance, endangers, or is likely to endanger, public health or safety.
- (b) Ensure that the animal is under proper control when in a public place and does not cause a nuisance or danger to any other person, cause damage to the public place, or damage property belonging to any other person in a public place.
- (c) Prevent the animal from wandering or being at large without proper guidance on a public place.

8.4.2 The Council may issue a written notice requiring the owner or person keeping any animal to take specified actions to comply with clause 8.4.1.

8.4.3 Except with the written consent of the Council or an authorised officer, a person must not:

- (a) Keep any stock in an urban area.
- (b) Tether, or otherwise leave out, stock to graze on any public place (especially public roadways and margins).
- (c) Use any road frontage as a stock race.
- (d) Keep stock excluding pigs less than five metres from any dwelling or other building whether wholly or partly occupied.

8.4.4 A person must not lead, ride, or drive stock on footpaths, cycle tracks, Council gardens, flower beds in a public place, or grass berms in urban areas.

### **8.5 Pigs**

8.5.1 Pigs must not be kept in an urban area.

8.5.2 Except with the written consent of the Council or an authorised officer, a person must not construct any pig sty or allow any pigs to be at large or to range at a distance less than 30 metres from any dwelling, wholly or partly occupied building, place used for the preparation, storage, or sale of food for human consumption, street, or public place.

## 8.6 Beekeeping

- 8.6.1 The Council or an authorised officer may prescribe conditions relating to the location and number of hives able to be kept on any premises or place in an urban area.

### *Explanatory notes*

- *Beekeepers are legally obligated under the [Biosecurity Act 1993](#) to register their details and apiary.*
- *Beekeepers are encouraged to comply with Apiculture New Zealand's voluntary [Beekeeper Code of Conduct](#).*

## 8.7 Poultry keeping

- 8.7.1 Poultry houses or runs must not be constructed within 10 metres from any dwelling, wholly or partly occupied building, or within two metres of the boundary of any adjoining property.
- 8.7.2 Except with the written consent of the Council or an authorised officer, no more than 12 head of poultry may be kept on any property in an urban area. Consent may be refused or revoked if in the opinion of the Council or an authorised officer, the poultry house or poultry run is likely to cause a nuisance or be offensive or dangerous to health.
- 8.7.3 No roosters may be kept in an urban area.
- 8.7.4 Any property where poultry are not confined in a poultry house and run must have secure boundary fences to confine the poultry to that property.

### *Explanatory note*

- *Poultry houses or runs must be constructed in accordance with the Building Act 2004. If it exceeds 10 square metres in floor area, a building consent is required.*

## 8.8 Stock slaughter

- 8.8.1 A person must not slaughter any stock other than poultry in a public place or in the urban area.
- 8.8.2 A person must not slaughter any animal, or dispose of the carcass or remains of any animal, in a manner that creates a nuisance to any person or a threat to public health or safety.
- 8.8.3 Clause 8.8.1 does not apply to:
- (a) A veterinarian registered under the Veterinarians Act 2005.
  - (b) An inspector or authorised person appointed under the Biosecurity Act 1993, or any person acting under the direct supervision of an inspector or authorised person.
  - (c) An inspector appointed under the Animal Welfare Act 1999.
  - (d) A person who is complying with the Animal Welfare Act 1999.

## 8.9 Control of horse riding in public places

- 8.9.1 A person must not ride a horse in a public place recklessly or in a manner that intimidates, or causes a danger or nuisance to other people.
- 8.9.2 The person in control of any horse in a public place must remove or safely dispose of any manure deposited by that horse as soon as practicable.
- 8.9.3 Except the written consent of the Council or an authorised officer, a person must not ride a horse in:
- (a) The section of Church Street between Kelly Street and Richard Street.
  - (b) Those sections of Kelly Street, Elliott Street, King Street and Richard Street between Church Street and St John Street.

- (c) The Ōhiwa Harbour mudflats.
  - (d) Any known breeding area.
- 8.9.4 Following consultation with the public and interested parties, the Council may by resolution prohibit horse riding in any public place additional to those specified in clause 8.9.3.
- 8.9.5 The Council will install signs to indicate the areas where the prohibitions in clauses 8.9.3 and 8.9.4 apply.

*Explanatory notes*

- *Part 4 Beaches contains rules about horse riding on beaches, including prohibiting horses from areas where endangered birds are nesting, designated conservation areas, coastal vegetation or rehabilitation areas, and the sand dunes.*
- *Refer to reserve management plans for any restrictions on horse riding on Council owned and/or controlled reserves.*
- *Part 11 of the [Land Transport \(Road User\) Rule 2004](#) sets out rules for horse riding on the road.*

**8.10 Driving stock on roads**

- 8.10.1 Except with the written permission of the Council, a person must not drive any stock along any road during the hours of darkness, except to return escaped stock to the nearest secure area, or in the case of an emergency that makes it necessary for the stock to use roads to escape the consequences of the emergency.
- 8.10.2 A person must not drive or permit the driving of stock on any road within the Ōpōtiki Ward except under the authority and in accordance with a resolution of the Council under clause 8.10.3 of this Bylaw.
- 8.10.3 The Council may by resolution permit stock to be driven along prescribed roads or parts of roads within the Ōpōtiki Ward during times and in accordance with conditions prescribed by the Council; and the Council may by resolution revoke or alter any prescription of roads or any times or conditions.
- 8.10.4 Without limiting the effect of clauses 8.10.1 and 8.10.3, stock movement along any road in the Ōpōtiki District is permitted if the following conditions are met:
- (a) The number of stock in any one mob must not exceed 600 cattle or 3,000 sheep.
  - (b) Drivers must be at the ratio that will ensure stock are under control at all times with at least one competent drover to every 300 cattle or 1,500 sheep.
  - (c) Stock must be kept moving to make progress towards the destination at a reasonable speed.
  - (d) The safety of other road users must be taken into account and provided for at all times by the person in control of stock being driven on any road.
  - (e) No case of droving may exceed 20 kilometres.
- 8.10.5 Any person wishing to drive stock along a road who is unable to comply with the conditions in clause 8.10.4 may apply in writing to the Council for an exemption.
- 8.10.6 This provision does not apply to dairy herds being driven along or crossing a road in compliance with clause 8.11 of this Bylaw.

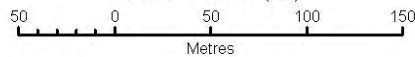
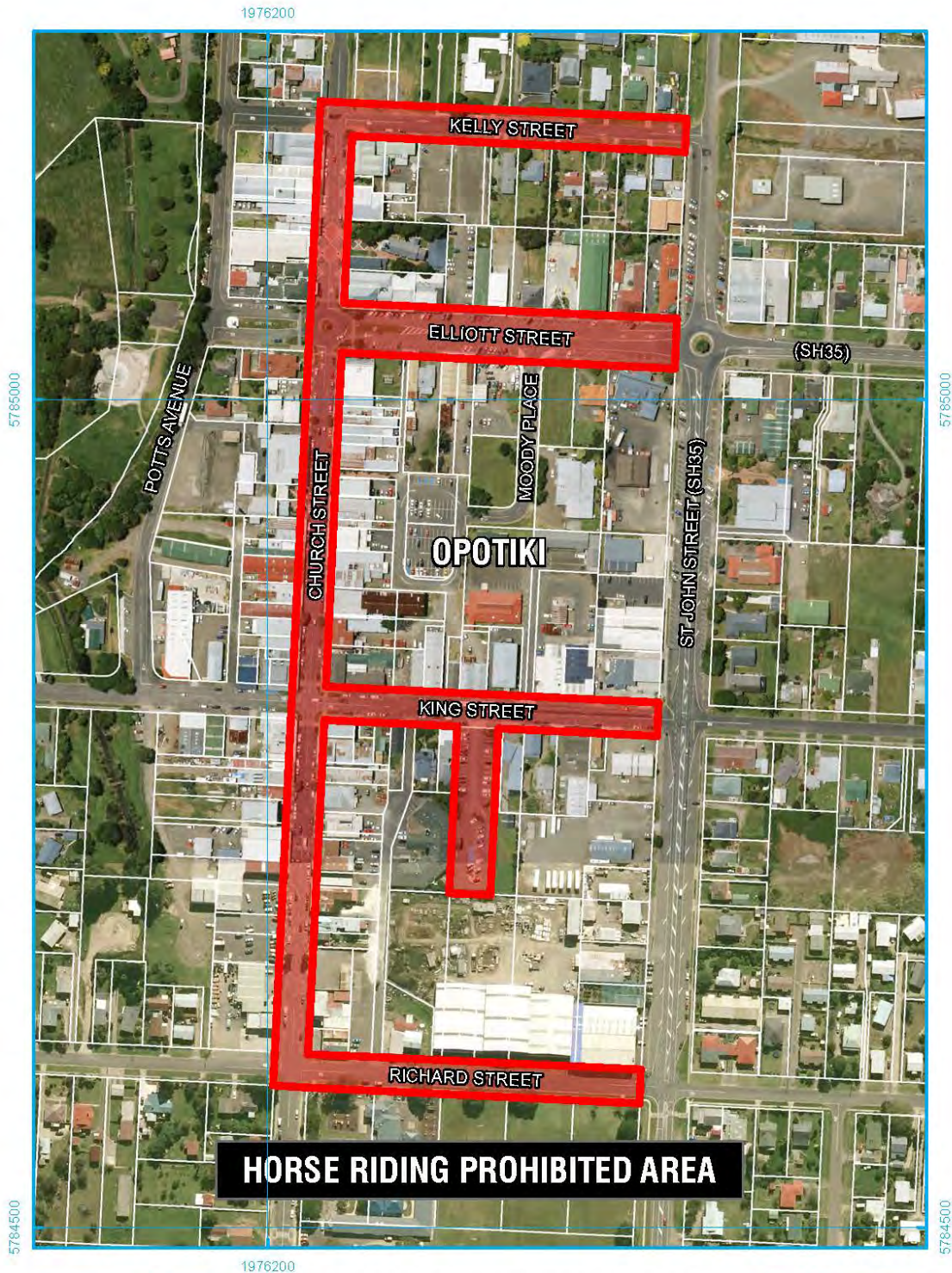
**8.11 Crossing places for dairy herds**

- 8.11.1 A person must not move dairy cattle along or across any road on a regular basis except through a stock underpass or at an approved crossing place that has been designed and constructed in accordance with Council's requirements.

- 8.11.2 The Council may, by resolution and following written application, grant any farmer an exemption from the requirement in clause 8.11.1 to construct a stock underpass or approved crossing place.
- 8.11.3 An exemption under clause 8.11.2 will be granted only when all of the following factors or circumstances can be shown to exist:
- (a) It can be demonstrated that physical or geographical factors make it impossible or impractical to link the farm to the milking shed by way of an underpass or crossing place.
  - (b) It can be demonstrated that there are no other alternative means of linking the farm with the milking shed.
  - (c) It can be demonstrated that those same physical or geographical factors that render it impossible to create a crossing place or underpass linkage across a road existed before the Ōpōtiki District Council Stock Bylaw 1997 came into effect.
  - (d) Any person who is granted an exemption under clause 8.11.2 will also need to be successful in obtaining a permit under clauses 8.4.3(c) before any road can be used as a stock race.

**Schedule 1 of Part 8 Animal Control Horse riding prohibited area in Ōpōtiki town centre**

Map 1: Horse riding prohibited area in Ōpōtiki town centre





## **Part 9. Dog Control**

### **9.1 Title**

9.1.1 This is Part 9 Dog Control of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **9.2 Purpose**

9.2.1 Part 9 Dog Control gives effect to the Ōpōtiki District Council's Dog Control Policy 2019, which regulates the control of dogs so they do not cause danger, distress, or nuisance to the community, stock, domestic animals, or protected wildlife.

#### *Explanatory note*

- *Part 9 Dog Control supplements rather than duplicates other dog owner obligations, including, but not limited to, the [Dog Control Act 1996](#), [Animal Welfare Act 1999](#) and related codes of welfare, [Reserves Act 1977](#), [Conservation Act 1987](#), [Wildlife Act 1953](#), and [Resource Management Act 1991](#).*

### **9.3 Definitions**

9.3.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **9.4 Control of dogs**

9.4.1 Dogs, other than working dogs, must be kept controlled on a leash at all times in all public places in the urban area, except in areas identified in Schedule 1 of Part 9: Dog control areas as dog exercise areas or dog prohibited areas.

9.4.2 Every dog must be kept controlled on a leash if it is likely to injure, endanger, or cause distress to any stock (including horses), other domestic animal, or protected wildlife.

9.4.3 The owner of any dog that defecates in a public place or on land or premises other than that occupied by the owner must immediately remove the faeces and dispose of them in a hygienic manner.

9.4.4 Schedule 1 contains maps that detail the restrictions on dogs in public places and forms part of Part 9 Dog Control. Schedule 1 may be amended from time to time in accordance with section 151(2) of the Local Government Act 2002.

### **9.5 Dog exercise areas**

9.5.1 The Council may by publicly notified resolution declare any public place to be a dog exercise area in which dogs may be exercised at large.

9.5.2 Every owner may exercise their dog off leash in the dog exercise areas identified in Schedule 1 of Part 9: Dog control areas but must carry a leash, keep the dog under control, and remain in the dog exercise area while the dog is off leash.

9.5.3 Dogs classified as dangerous or menacing may be exercised off leash in dog exercise areas provided they are muzzled and under effective control at all times.

### **9.6 Dog prohibited areas**

9.6.1 The Council may by publicly notified resolution declare any public place to be a dog prohibited area.

9.6.2 Dogs are prohibited from the dog prohibited areas identified in Schedule 1 of Part 9: Dog control areas.

*Explanatory note*

- *Dog access to public conservation land is controlled by the Department of Conservation (DOC) to protect our native plants and animals. Contact DOC to check the rules that apply to dog access to conservation land.*

**9.7 Bitches in season**

- 9.7.1 The owner of any bitch must keep the dog confined but adequately exercised while it is in season.

**9.8 Diseased dogs**

- 9.8.1 The owner of any dog with an infectious disease must ensure the dog receives appropriate treatment, including veterinary care if necessary.
- 9.8.2 Any dogs with an infectious disease must be confined to land occupied by the owner unless being taken to a veterinary clinic for treatment and must not be taken into any public place or allowed to wander at large.

**9.9 Duty to avoid nuisance**

- 9.9.1 The owner of any dog, or the owner or occupier of any premises where any dog is kept, must take adequate precautions to prevent the dog, or the keeping thereof, from becoming a nuisance or injurious to health.
- 9.9.2 If the Council or an authorised officer considers any dog or the keeping of any dog on any premises has, or is likely to, become a nuisance or health and safety risk, the Council or an authorised officer may issue a written notice requiring the owner or occupier of the premises to do all or any of the following:
- (a) Reduce the number of dogs kept on the premises.
  - (b) Construct, alter, reconstruct, or otherwise improve the kennels or other buildings used to house or contain the dog.
  - (c) Tie up or otherwise confine the dog during specified periods.
  - (d) Take any other action the Council deems necessary to minimise or remove the likelihood of nuisance or injury to health or safety.

*Explanatory notes*

- *The Dog Control Act imposes the following obligations on every owner of a dog:*
  - (a) *to ensure that the dog is registered in accordance with this Act, and that all relevant territorial authorities are promptly notified of any change of address or ownership of the dog:*
  - (b) *to ensure that the dog is kept under control at all times:*
  - (c) *to ensure that the dog receives proper care and attention and is supplied with proper and sufficient food, water and shelter:*
  - (d) *to ensure that the dog receives adequate exercise:*
  - (e) *to take all reasonable steps to ensure that the dog does not cause a nuisance to any other person, whether by persistent and loud barking or howling or by any other means:*
  - (f) *to take all reasonable steps to ensure that the dog does not injure, endanger, intimidate, or otherwise cause distress to any person:*
  - (g) *to take all reasonable steps to ensure that the dog does not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife:*

- (h) *to take all reasonable steps to ensure that the dog does not damage or endanger any property belonging to any other person:*
- (i) *to comply with the requirements of this Act and of all regulations and bylaws made under this Act.*

### **9.10 Limit on number of dogs on a premises**

9.10.1 No more than two dogs older than three months are permitted per premises in the following zones, except with a licence obtained from Council:

- (a) Residential Zone.
- (b) Mixed Activity Zone.
- (c) Ōhiwa Harbour Zone.
- (d) Coastal Settlement Zone.

There are no limits in the Rural Zone or Coastal Zone.

9.10.2 Veterinary clinics and the Duke Street Pound are exempt from clause 9.10.1.

9.10.3 A licence issued under clause 9.10.1 is subject to any conditions set by Council and may be revoked if any conditions are breached.

### **9.11 Impounding**

9.11.1 A dog control officer may seize and impound a dog found at large in breach of this or any other part of the Consolidated Bylaw, whether or not the dog is wearing a collar or has a registration label.

9.11.2 The owner of any impounded dog must pay Council the impounding fee and a daily sustenance fee for the dog during the period that it is impounded.

9.11.3 The Council may sell, destroy, or otherwise dispose of an impounded dog if:

- (a) It is not claimed by the owner and all fees paid to Council within seven days after the owner has been notified that the dog has been impounded.
- (b) The owner of the dog is not known and cannot be identified within seven days of the impounding.

9.11.4 Any person who is sold a dog under clause 9.11.3 will become the registered owner of that dog.

9.11.5 The destruction or sale of any impounded dog will not relieve the person who was the owner before the dog's destruction or sale of liability for any offence under Part 9 Dog Control or for payment of any fees payable under Part 9 Dog Control.

### **9.12 Neutering of dogs**

9.12.1 The owner of a dog that has been found on more than one occasion to be not kept under control may be required by the council to have the dog neutered within one month after receipt of notice of the requirement.

9.12.2 All dogs classified as dangerous or menacing must be neutered within one month after receipt of notice of the requirement.

9.12.3 If a dog is required to be neutered under clause 9.12.1 or 9.12.2, the owner must provide the Council with a certificate issued by a veterinarian certifying:

- (a) That the dog is or has been neutered.
- (b) That for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate.

9.12.4 If a certificate under clause 9.12.3(b) is produced to the council, produce to the council, within one month after the date specified in that certificate, a further certificate under clause 9.12.3(a).

*Explanatory note*

- *The requirement for neutering applies to all dogs classified as menacing by Ōpōtiki District Council under section 33A or 33C of the Dog Control Act 1996 and all dogs classified as menacing by any other territorial authority and registering with Ōpōtiki District Council.*

## Schedule 1 of Part 9: Dog control areas

### Dog exercise areas

- Beaches (except for those areas on beaches identified as dog prohibited areas)
- Ōpōtiki Township stop banks
- Volkner Island.

Map 1: Volkner Island dog exercise area



## **Dog prohibited areas**

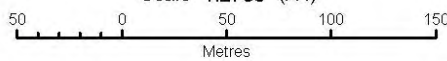
Dogs are prohibited at all times from:

- Public playgrounds (within 10 metres of play equipment).
- Church Street from Kelly Street to Richard Street, with the exception of being able to cross perpendicularly over Church Street at Kelly Street, Elliot Street, King Street and Richard Street.
- Hukutaia Domain.
- Rose Garden Pre-School and playground.
- Effluent ponds (Snells Beach).
- Upton Park.
- Waioeka Spit (East end).
- Waiaua Spits (both sides of Waiaua River mouth).
- Waiotahi Spit (dotterel breeding area).
- any known demarcated dotterel area in the district.

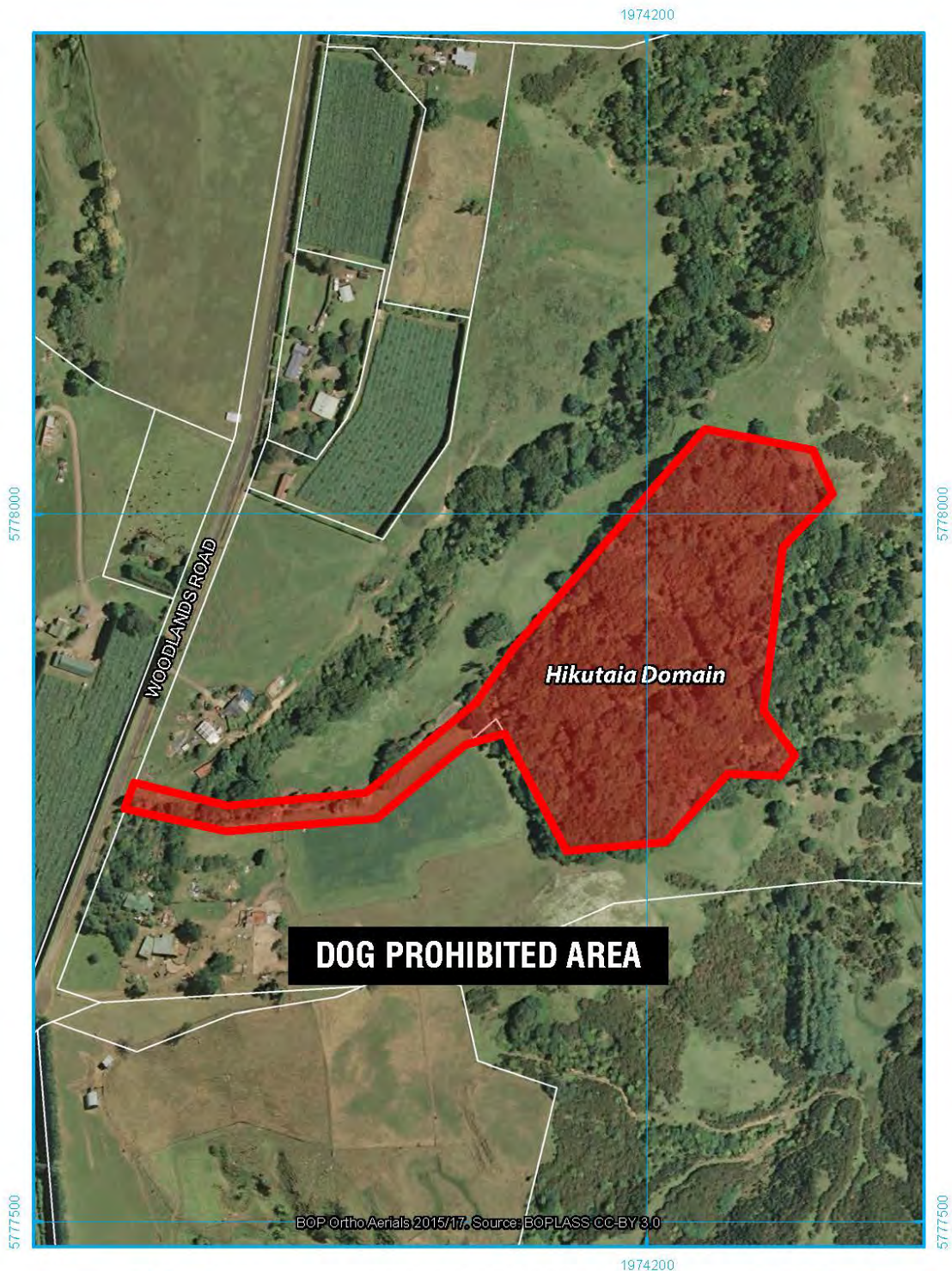
Dogs are prohibited from the following areas when organised sports events are taking place:

- Rugby Park / Princess Street Reserve.
- Ohui Domain on the corner of Otara Road and Gault Road.
- Memorial Park.

Map 2: Church Street dog prohibited area



Map 3: Hukutaia Domain dog prohibited area



**DOG PROHIBITED AREA**  
Hikutaia Domain, Opotiki  
Scale 1:3500 (A4)  
50 0 50 100 150  
Metres

**DRAFT 5/07/2019**

GSP-592237  
Sheet 1 of 1  
Printed 5/07/2019



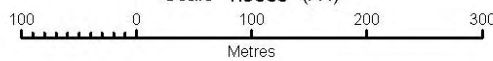
Map 4: Rose Garden preschool and playground dog prohibited area



Map 5: Snells Beach dog prohibited area



**DOG PROHIBITED AREA**  
Effluent Ponds, Snells Beach, Opotiki  
Scale 1:5000 (A4)



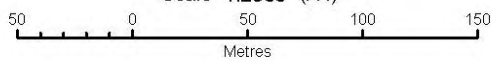
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GSP-592237  
Sheet 1 of 1  
Printed 5/07/2019

Map 6: Upton Park dog prohibited area



**DOG PROHIBITED AREA**  
Upton Park, Sedgewick Road, Opotiki  
Scale 1:2500 (A4)

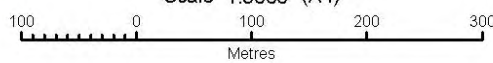


1975200

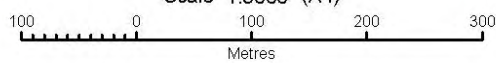
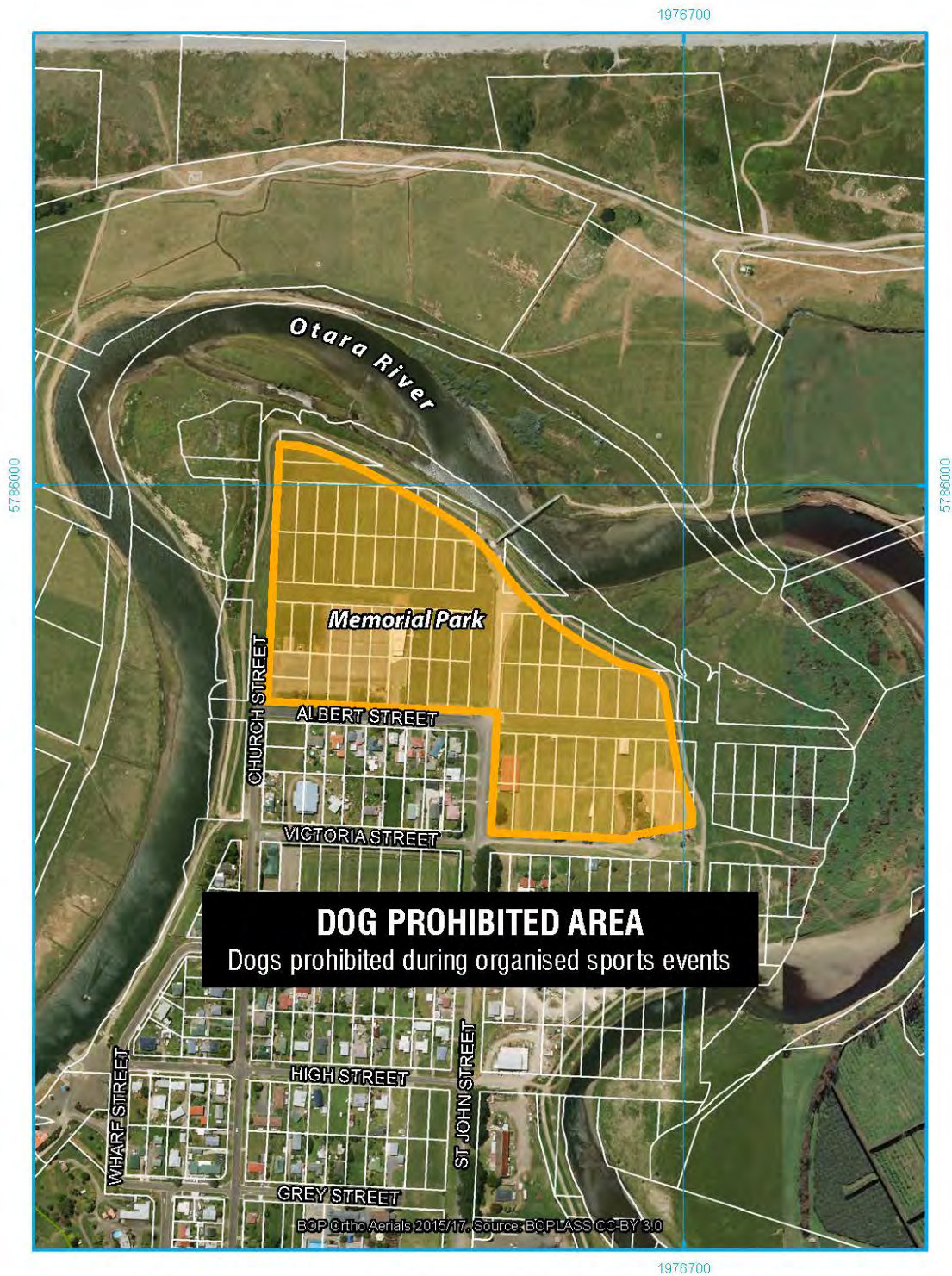
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GSP-592237  
Sheet 1 of 1  
Printed 5/07/2019

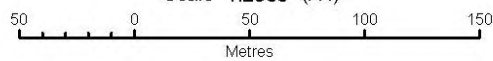
Map 7: Princess Street Reserve dog prohibited area



Map 8: Memorial Park Reserve dog prohibited area



Map 9: Ohui Domain dog prohibited area



## **Part 10. Solid Waste**

### **10.1 Title**

10.1.1 This is Part 10 Solid Waste of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **10.2 Purpose**

10.2.1 The purpose of Part 10 Solid Waste is to promote the safe collection and disposal of waste and recyclables (solid waste) in the interest of public health and at the same time ensuring that any obstruction of streets is kept to a minimum.

10.2.2 Part 10 Solid Waste applies to kerbside collection of solid waste.

### **10.3 Interpretation**

10.3.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **10.4 Collection of waste and recyclables**

10.4.1 A licence from the Council is required to carry on any trade or business that involves the collection of any waste or recyclables, whether or not in an approved container from the street.

10.4.2 An occupier of any premises must not cause or allow to be put out for collection from the street any waste unless:

- (a) The waste is contained in an approved container.
- (b) The approved container is placed in an approved situation on the day and not later than the time specified by Council for the collection of the refuse.

10.4.3 An occupier of any premises must not cause or allow to be put out for collection from the street any recyclables unless:

- (a) The recyclables are contained in an approved container, except that paper and cardboard need only be secured as a package.
- (b) The occupier of the premises has a contractual arrangement for the collection of the recyclables, or reasonable expectation that a licensed collector will collect the recyclables.
- (c) The recyclables are placed in an approved location on the day and not later than the time specified by Council for the collection of the recyclables.
- (d) The recyclables are secured to prevent spillage or scattering.

### **10.5 Obstruction of footpath**

10.5.1 A person must not place any receptacle for waste or recyclables, whether full or empty, on a footpath, carriage-way, cycleway, or pedestrian way or at any location which would endanger the public and/or restrict visibility.

### **10.6 Deposit of certain materials in approved containers prohibited**

10.6.1 A licensed collector must inform its customers of what can and cannot be put out for collection as waste and as recyclables.

10.6.2 A person must not put out or cause or allow to be put out for collection any prohibited waste, whether or not in an approved container.

### **10.7 Responsibility to ensure road corridor is free of litter post-collection**

10.7.1 Except in the case of any litter resulting from an occupier's failure to comply with clauses 10.4.2, 10.4.3, and/or 10.6.2, the licensed collector must ensure that all of the waste or

recyclables put out for collection by that collector is collected and that no litter remains once the relevant collection has been completed.

- 10.7.2 Where a licensed collector legitimately refuses to collect items put out for collection due to non-compliance with clauses 10.4.2, 10.4.3, and/or 10.6.2, the licensed collector must return such items to the emptied approved container or to the premises if no approved container is available.

## **10.8 Refuse disposal areas and transfer stations**

- 10.8.1 A person must not without the prior written consent of the Council:

- (a) Loiter on any waste disposal site or waste transfer station.
- (b) Disturb or remove any article or material of any kind from any waste disposal site or waste transfer station.
- (c) Light any fire on or near any waste disposal site or waste transfer station.
- (d) Enter any waste disposal site or waste transfer station when the area is closed.

## **10.9 Interference with an removal of waste or recyclable materials**

- 10.9.1 The interference with, or removal of, waste or recyclables from any public place by anyone other than either the occupier or owner of the property from which the waste or recyclables were generated, or a person authorised by the Council to remove such waste or recyclables, is prohibited.

## **10.10 Matters to be considered for issue of licences to collectors**

- 10.10.1 In considering whether to grant a licence to any person to carry on a trade or business that involves the collection of any waste or recyclables from the street, the Council may take into account any matters including but not limited to the following:

- (a) The suitability of the applicant to hold a licence.
- (b) The extent to which the licensed activities will promote public health and safety and achievement of the Council's waste management and minimisation plan and zero waste philosophy.
- (c) The type of waste or recyclables proposed to be collected.
- (d) The type and specification of vehicles, equipment, and containers proposed to be used for the collection services.
- (e) The frequency and location of the proposed services.
- (f) The proposed manner of treatment (if any) and disposal of the waste and recyclables.
- (g) The applicant's experience, reputation and track record in the waste industry.
- (h) The applicant's financial position.
- (i) The terms of any contracts or proposed contracts between the applicant and the occupiers of premises, and in particular contractual provisions relating to:
  - (i) Waste minimisation.
  - (ii) Containers not obstructing footpaths, carriageways, cycleways or pedestrian ways or otherwise causing an obstruction that would endanger the public.

- 10.10.2 The terms and conditions upon which a licence to carry on a trade or business that involves the collection of any waste or recyclables from the street may be granted may include, but are not limited to, the following:

- (a) The licence term.
- (b) The licence fee.



- (c) The provision to the Council of a works performance bond or security for the performance of the work licensed of an amount publicly notified by the Council from time to time.
- (d) Compliance with any relevant Council standards and policies for the collection, transportation and/or disposal of waste or recyclables.
- (e) Provision of services on the days and times and at the locations specified in the licence.
- (f) The identification and display by the collector of a telephone number free of charge to callers from Ōpōtiki.
- (g) Holding public liability insurance.
- (h) Providing information about the quantities, types, source, and/or destination of waste and recyclables collected.

## **Part 11. Trade Waste**

### **11.1 Title**

11.1.1 This is Part 11 Trade Waste of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **11.2 Purpose**

11.2.1 Part 11 Trade Waste regulates the discharge of trade waste to the wastewater system to:

- (a) Protect the health and safety of Council staff and the general public.
- (b) Enable Council to meet the requirements of the Resource Management Act, and in particular its resource consents for the discharge of treated sewage and the placement of sludge and biosolids on land.
- (c) Provide for an equitable spread of costs between domestic and trade waste discharges.
- (d) Protect the investment in the existing and any future infrastructure, treatment plant and disposal facilities.
- (e) Ensure compatibility between liquid, solid, and gaseous phases of trade waste discharges.
- (f) Ensure trade waste dischargers consider, and where appropriate and practicable implement, waste minimisation and cleaner production techniques to reduce the quantity and improve the quality of their trade waste discharges.

11.2.2 Part 11 Trade Waste applies to:

- (a) All trade premises in the Ōpōtiki District where trade wastes are discharged or sought or likely to be discharged to the wastewater system operated by the Council or its agents.
- (b) Tankered wastes collected for the purpose of discharge to the wastewater systems operated by the Council or its agents.

#### *Explanatory notes*

- *Part 11 Trade Waste should be read in conjunction with other relevant legislation including, but not limited to, the Building Act 2004, Hazardous Substances and New Organisms Act 1996 and associated regulations, Health Act 1956, Health and Safety at Work Act 2015, Land Transport Rule Dangerous Goods 2005 Rule 45001/1, Local Government Act 2002, and the Resource Management Act 1991 and associated regulations.*

### **11.3 Definitions**

11.3.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **11.4 Abbreviations**

\$/kg dollars per kilogram

\$/L/s dollars per litre per second

\$/m<sup>3</sup> dollars per cubic metre

°C degrees celsius

ANZECC Australian New Zealand Environment and Conservation Council

B boron

BOD<sub>5</sub> biochemical oxygen demand

Br<sub>2</sub> bromine

Cl<sub>2</sub> chlorine

CN	cyanide
COD	chemical oxygen demand
DAF	dissolved air floatation
DP	deposited plan
DS	dry solids
F	fluoride
FOGs	fats, oils and greases
g/m <sup>3</sup>	grams per cubic metre
GST	goods and services tax
H <sub>2</sub> S	hydrogen sulphide
HAHs	halogenated aromatic hydrocarbons
HCHO	formaldehyde
HCN	hydrogen cyanide
hr	hour
kg/day	kilogram per day
L	litre
L/s	litre per second
m <sup>3</sup>	cubic metre
max.	maximum
MBAS	methylene blue active substances
mg/L	milligram per litre
mL/L	millilitre per litre
mm	millimetres
MSDS	material safety data sheets
N	nitrogen
NH <sub>3</sub>	ammonia
NH <sub>3</sub> -N	ammoniacal nitrogen
P	phosphorus
PAHs	polycyclic (or polynuclear) aromatic hydrocarbons
PBBs	polybrominated biphenyls
PCBs	polychlorinated biphenyls
pH	measure of acidity/alkalinity
sec	second
SBR	sequencing batch reactor
SO <sub>4</sub>	sulphate
SS	suspended solids concentration
UV	ultra violet
UVT	ultra violet transmission

## **11.5 Control of Discharges**

11.5.1 A person must not:

- (a) Discharge, or allow to be discharged, any trade waste to the wastewater system except in accordance with the provisions of Part 11 Trade Waste.
- (b) Discharge, or allow to be discharged, a prohibited trade waste into the wastewater system.
- (c) Add or permit the addition of condensing or cooling water to any trade waste that discharges into the wastewater system unless specific approval is given in a consent.
- (d) Add or permit the addition of stormwater to any trade waste that discharges into the wastewater system unless specific approval is given in a consent.

11.5.2 In the event of failure to comply with clause 11.5.1 the Council may physically prevent discharge to the wastewater system if a reasonable alternative action cannot be established with the discharging party or parties.

## **11.6 Storage, transportation and handling**

11.6.1 Any person must take all reasonable steps to prevent the accidental entry of any of the materials listed in clause 11.6.3 from entry into the wastewater system as a result of leakage, spillage or other mishap.

11.6.2 A person must not store, transport, handle or use, or cause to be stored, transported, handled or used any hazardous substance as defined by the Hazardous Substances and New Organisms Act 1996 or any of the materials listed in 11.6.3 in a manner that may cause the material to enter the wastewater system and cause harmful effects.

11.6.3 Materials referred to in 11.6.1 and 11.6.2 are those:

- (a) Products or wastes containing corrosive, toxic, biocidal, radioactive, flammable or explosive materials.
- (b) Likely to generate toxic, flammable, explosive or corrosive materials in quantities likely to be hazardous, when mixed with the wastewater stream.
- (c) Likely to be harmful to the health and safety of the Council's staff, approved contractors and the public or likely to damage the wastewater system.

## **11.7 Classification of trade waste discharges**

11.7.1 Trade waste discharges are classified as one of the following types:

- (a) Permitted - an acceptable waste for which standard conditions can be applied; consent required if decided by the Council.
- (b) Conditional - the risk of producing a waste that may be unacceptable is significant, and specific conditions may need to be applied; consent required.
- (c) Prohibited - waste that is not acceptable for discharge; not consentable.

11.7.2 The Council is not obliged to accept any trade waste and may refuse to accept any trade waste that is not in accordance with Part 11 Trade Waste.

11.7.3 An application for a trade waste consent will not be approved where the trade waste discharge would contain, or is likely to contain, characteristics that are prohibited.

11.7.4 A person must not discharge, or cause to be discharged, any trade waste to the Council sewer except in accordance with the provisions of Part 11 Trade Waste.

## **11.8 Application for a trade waste consent**

11.8.1 Every person who wishes to:

- (a) Discharge any trade waste into the wastewater system either continuously, intermittently or temporarily.
- (b) Vary a consent to discharge, including any conditions and/or characteristics.
- (c) Significantly change the method or means of pre-treatment for discharge under an existing consent.

must apply to the Council, using the prescribed form, for a consent for the discharge of that trade waste, or for consent to the proposed variations.

- 11.8.2 The Council reserves the right to deal with the owner as well as the occupier of any trade premises.
- 11.8.3 Where the trade premises produces trade waste from more than one area, a separate description of the trade waste characteristics must be included in any application for trade waste discharge for each area. This applies whether or not the separate areas are part of a single or separate trade process.
- 11.8.4 The application under clause 11.8.1 must contain all information required by the Council and be accompanied by the applicable fee.
- 11.8.5 The Council may require an application to be supported by a report or statement from a suitably qualified independent person to verify information supplied by the applicant. All costs incurred must be paid by the applicant.
- 11.8.6 On the receipt of any application for a trade waste consent to discharge from any premises or to alter an existing discharge, the Council may:
  - (a) Require the applicant to submit any additional information that it considers necessary to reach an informed decision.
  - (b) Require the applicant to submit a management plan.
  - (c) Whenever appropriate, have the discharge investigated and analysed as provided for in section 11.16 and section 11.18 of Part 11 Trade Waste.
- 11.8.7 The Council may:
  - (a) Grant the application as a permitted trade waste and inform the applicant of the decision by issuing the appropriate notice.
  - (b) Grant the application as a conditional trade waste discharge consent and inform the applicant of the decision and the conditions imposed on the discharge by issuing the appropriate notice of consent to the discharge.
  - (c) Decline the application and notify the applicant of the decision giving a statement of the reasons for refusal.
- 11.8.8 In considering any application for a trade waste consent, the Council will consider the quality, volume, and rate of discharge of the trade waste from the premises or tanker in relation to:
  - (a) The health and safety of Council staff, Council's agents and the public.
  - (b) The limits and/or maximum values for characteristics of trade waste as specified in Schedules 1 and 2 of Part 11 Trade Waste.
  - (c) The extent to which the trade waste may react with other trade waste or foul water to produce an undesirable effect, e.g. settlement of solids, production of odours, accelerated corrosion and deterioration of the wastewater system etc.
  - (d) The flows and velocities in the sewer, or sewers and the material or construction of the sewer or sewers.

- (e) The capacity of the sewer or sewers and the capacity of any sewage treatment works, and other facilities.
- (f) The nature of any sewage treatment process and the degree to which the trade waste is capable of being treated in the sewage treatment works.
- (g) The timing and balancing of flows into the wastewater system.
- (h) Any statutory requirements relating to the discharge of raw or treated wastewater to receiving waters, the disposal of sewage sludges, beneficial use of biosolids, and any discharge to air, including the necessity for compliance with any resource consent, discharge permit or water classification.
- (i) The effect of the trade waste discharge on the ultimate receiving environment.
- (j) The conditions on resource consents for the wastewater system and the residuals from it.
- (k) The possibility of unscheduled, unexpected or accidental events and the degree of risk these could cause to humans, the wastewater system and the environment.
- (l) Consideration for other existing or future discharges.
- (m) Amenability of the trade waste to pre-treatment.
- (n) Existing pre-treatment works on the premises and the potential for their future use.
- (o) Cleaner production techniques and waste minimisation practices.
- (p) Requirements and limitations related to sewage sludge disposal and reuse.
- (q) Control of stormwater.
- (r) Any management plan.
- (s) Tankered waste being discharged at an approved location(s).

## **11.9 Conditions of trade waste consents**

11.9.1 Any trade waste consent to discharge may be granted subject to conditions that the Council may impose, including but not limited to:

- (a) The particular public sewer or sewers to which the discharge will be made.
- (b) The maximum daily volume of the discharge and the maximum rate of discharge, and the duration of maximum discharge.
- (c) The maximum limit or permissible range of any specified characteristics of the discharge, including concentrations and/or mass limits.
- (d) The period or periods of the day during which the discharge, or a particular concentration, or volume of discharge may be made.
- (e) The degree of acidity, or alkalinity of the discharge at the time of discharge.
- (f) The temperature of the trade waste at the time of discharge.
- (g) The provision by, or for the consent holder, at the consent holder's expense, of screens, grease traps, silt traps or other pre-treatment works to control trade waste discharge characteristics to the consented levels.
- (h) The provision and maintenance at the consent holder's expense of inspection chambers, manholes or other apparatus or devices to provide reasonable access to drains for sampling and inspection.
- (i) The provision and maintenance of a sampling, analysis and testing programme and flow measurement requirements, at the consent holder's expense.

- (j) The method or methods to be used for the measuring flow rates and/or volume and taking samples of the discharge for use in determining the amount of any trade waste charges applicable to that discharge.
- (k) The provision and maintenance by, and at the expense of, the consent holder of meters or devices that may be required to measure the volume or flow rate of any trade waste being discharged from the premises, and for the testing of such meters.
- (l) The provision and maintenance, at the consent holder's expense, of services (whether electricity, water or compressed air or otherwise) that may be required to operate meters and similar devices.
- (m) At times specified, the provision in a Council approved format by the consent holder to the Council of all flow and/or volume records and results of analyses (including pre-treatment by-products e.g. sewage sludge disposal).
- (n) The provision and implementation of a management plan.
- (o) Risk assessment of damage to the environment due to an accidental discharge of a chemical.
- (p) Waste minimisation and management.
- (q) Cleaner production techniques.
- (r) Remote control of discharges.
- (s) Third party treatment, carriage, discharge or disposal of by-products of pre-treatment of trade waste (including sewage sludge disposal).
- (t) Requirement to provide a bond or insurance in favour of the Council where failure to comply with the consent could result in damage to the Council's wastewater system, its treatment plants, or could result in the Council being in breach of any statutory obligation.
- (u) Remote monitoring of discharges.

**11.10 Duration of trade waste consents for permitted discharges**

11.10.1 Permitted discharges will remain in force indefinitely until either:

- (a) Cancellation under clause 11.5.2 or section 11.13.
- (b) The quantity and nature of the discharge changes significantly.
- (c) If in the opinion of the Council the discharge changes or is likely to change to such an extent that it becomes a conditional or prohibited trade waste.
- (d) The Council changes the trade waste management procedures by amending or replacing Part 11 Trade Waste.
- (e) The conditions on resource consents for the wastewater system and the residuals from it change.

11.10.2 In all cases, after appropriate consultation, the person must apply within 10 working days of this change occurring for a conditional consent. This application must be approved before any new discharge.

**11.11 Duration of trade waste consents for conditional discharges**

11.11.1 Subject to section 11.13, conditional consents under Part 11 Trade Waste will expire at the end of a term fixed by the Council subject to the following:

- (a) Conditional consents may be given for a term not exceeding five years to a consent holder who at the time of application satisfies the Council that:

- (i) The nature of the trade activity, or the process design and/or management of the premises are such that the consent holder has a demonstrated ability to meet the conditions of the consent during its term.
- (ii) Cleaner production techniques are successfully being utilised, or that a responsible investment in cleaner production equipment or techniques is being made.
- (iii) Significant investment in pre-treatment facilities has been made, such that a longer period of certainty for the amortising of this investment is considered reasonable.
- (iv) The reissuing of a consent cannot be unreasonably withheld.
- (b) Notwithstanding the above, the Council retains the right to review the conditions at any time. The reasons for such an earlier review could include:
  - (i) The level of consent holder compliance, including any accidents including spills or process mishaps.
  - (ii) Matters pertaining to the Council's resource consents for the wastewater system.
  - (iii) Matters pertaining to the Council's environmental policies and outcomes.
  - (iv) New control and treatment technologies and processes.
  - (v) Any of the matters outlined in clause 11.8.8.
  - (vi) Matters pertaining to the Council's legal obligations.
- (c) In all other cases the term of a conditional trade waste consent should not exceed two years.
- (d) In all cases where either the consent holder or the owner of the premises changes, or there is a change of use, a new application for a conditional trade waste consent must be made. It is the responsibility of the consent holder to lodge the new application.
- (e) The conditions on resource consents for the wastewater system and the residuals from it change.

## **11.12 Technical review and variation**

- 11.12.1 The Council may at any time require a person undertaking a permitted discharge to apply for a consent in accordance with clauses 11.10.1 and 11.10.2.
- 11.12.2 The Council may at any time during the term of a trade waste consent, by written notice to the consent holder, vary any condition to the extent the Council considers necessary following a review of the technical issues considered when setting conditions of consent. This is due to new information becoming available or to meet any new resource consent imposed on the discharge from the Council's treatment plant, or with any other legal requirements imposed on the Council.
- 11.12.3 A consent holder may at any time during the term of a consent, by written application to the Council, seek to vary any condition of consent, as provided for in section 11.8.

## **11.13 Cancellation of the right to discharge**

- 11.13.1 The Council may suspend or cancel any consent or right to discharge at any time following 20 working days' notice to the consent holder or person discharging any trade waste:
  - (a) For the failure to comply with any condition of the consent.
  - (b) For the failure to maintain effective control over the discharge.



- (c) For the failure to limit the volume, nature, or composition of trade waste being discharged in accordance with the requirements of a consent.
  - (d) In the event of any negligence which, in the opinion of the Council, threatens the safety of, or threatens to cause damage to any part of the sewer system or the treatment plant or threatens the health or safety of any person.
  - (e) If any occurrence happens that, in the opinion of the Council, poses a serious threat to the environment.
  - (f) In the event of any breach of a resource consent held by the Council issued under the Resource Management Act 1991.
  - (g) For a failure to provide and when appropriate update a management plan if this is required under the consent.
  - (h) Failure to follow the management plan provisions at the time of an unexpected, unscheduled or accidental occurrence.
  - (i) Failure to pay any charges under Part 11 Trade Waste.
  - (j) If any other circumstances arise that, in the opinion of the Council, render it necessary in the public interest to cancel the right to discharge.
- 11.13.2 The Council will consult with the consent holder or person discharging during the 20 working day notice period. If any process changes require more than 20 working days, reasonable time may be given to comply with the consent conditions.
- 11.13.3 Further to 11.13.1, the Council may immediately suspend or cancel a trade waste consent or discharge by giving the consent holder or person discharging written notice if:
- (a) Any prohibited substance is discharged.
  - (b) The Council is lawfully directed to withdraw or otherwise to immediately terminate the consent.
  - (c) Any trade waste is discharged unlawfully.
  - (d) The continuance of discharge is, in the opinion of the Council, a threat to the environment or public health.
  - (e) The continuance of discharge may, in the opinion of the Council, result in a breach of a resource consent held by the Council.
  - (f) In the opinion of the Council the continuance of the discharge puts at risk the ability of the Council to comply with any resource consent conditions and/or requires identified additional treatment measures or costs to seek to avoid a breach of any such resource consent.
- 11.14 Pre-treatment**
- 11.14.1 The Council may approve a trade waste discharge subject to the provision of appropriate pre-treatment systems to enable the person discharging to comply with Part 11 Trade Waste. Such pre-treatment systems must be provided, operated and maintained by the person discharging at their expense.
- 11.14.2 Refuse or garbage grinders, and macerators must not be used to dispose of solid waste from trade premises to the wastewater system unless approved by the Council.
- 11.14.3 The person discharging must not, unless approved by the Council, add or permit the addition of any potable, condensing, cooling water or stormwater to any trade waste stream in order to vary the level of any characteristics of the waste.

### **11.15 Mass limits**

- 11.15.1 A conditional trade waste consent to discharge may impose controls on a trade waste discharge by specifying mass limits for any characteristic.
- 11.15.2 Mass limits may be imposed for any characteristic. Any characteristic permitted by mass limit will also have its maximum concentration limited to the value scheduled unless approved otherwise.
- 11.15.3 When setting mass limit allocations for a particular characteristic the Council will consider:
- (a) The operational requirements of and risk to the wastewater system, and risks to health and safety, public health, and the ultimate receiving environment.
  - (b) Whether or not the levels proposed pose a threat to the planned or actual beneficial reuse of biosolids or sewage sludge.
  - (c) Conditions in the wastewater system near the trade waste discharge point and elsewhere in the wastewater system.
  - (d) The extent to which the available industrial capacity was used in the last financial period and is expected to be used in the forthcoming period.
  - (e) Whether or not the applicant uses cleaner production techniques within a period satisfactory to the Council.
  - (f) Whether or not there is any net benefit to be gained by the increase of one characteristic concurrently with the decrease of another to justify any increased application for industrial capacity.
  - (g) Any requirements of the Council to reduce the pollutant discharge of the wastewater system.
  - (h) How great a proportion the mass flow of a characteristic of the discharge will be of the total mass flow of that characteristic in the wastewater system.
  - (i) The total mass of the characteristic allowable in the wastewater system, and the proportion (if any) to be reserved for future allocations.
  - (j) Whether or not there is an interaction with other characteristics that increases or decreases the effect of either characteristic on the sewer reticulation, treatment process, or receiving water (or land).

### **11.16 Flow metering**

- 11.16.1 Flow metering may be required by the Council in any of the following circumstances:
- (a) On conditional discharges when there is not a reasonable relationship between a metered water supply to the premises and the discharge of trade waste.
  - (b) When the Council will not approve a method of flow estimation.
  - (c) When the discharge represents a significant proportion of the total flow/load received by the Council.
- 11.16.2 The consent holder will be responsible for the supply, installation, reading and maintenance of any meter required by the Council for the measurement of the rate or quantity of discharge of trade waste. These devices will be subject to the approval of the Council, but will remain the property of the consent holder.
- 11.16.3 Records of flow and/or volume must be available for viewing at any time by the Council, and must be submitted to the Council at prescribed intervals by the consent holder in a format approved by the Council.

- 11.16.4 Meters must be located in a position approved by the Council which provides the required degree of accuracy and should be readily accessible for reading and maintenance. The meters must be located in the correct position according to the manufacturer's installation instructions.
- 11.16.5 The consent holder must arrange for *in situ* calibration of the flow metering equipment and instrumentation by a person and method approved by the Council upon installation and at least once a year thereafter to ensure its performance. The meter accuracy should be  $\pm 10\%$  but with no greater a deviation from the previous meter calibration of  $\pm 5\%$ . A copy of independent certification of each calibration result must be submitted to the Council.
- 11.16.6 If any meter, after being calibrated, is found to have an error greater than that specified in 11.16.5 as a repeatable measurement, the Council may make an adjustment in accordance with the results shown by such tests back-dated for a period at the discretion of the Council but not exceeding 12 months, and the consent holder must pay or be credited a greater or lesser amount according to such adjustment.

### **11.17 Estimating discharge**

- 11.17.1 Where no meter or similar apparatus is warranted, the Council may require that a percentage of the water supplied to the premises (or other such basis as seems reasonable) be used for estimating the rate or quantity of flow for the purposes of charging.
- 11.17.2 Should any meter be out of repair or cease to register, or be removed, the Council will estimate the discharge for the period since the previous reading of such meter (based on the average of the previous 12 months charged to the person discharging) and they must pay according to such estimate. Provided that when by reason of a large variation of discharge due to seasonal or other causes, the average of the previous 12 months would be an unreasonable estimate of the discharge, then the Council may take into consideration other evidence for the purpose of arriving at a reasonable estimate, and the person discharging must pay according to such an estimate.
- 11.17.3 Where in the opinion of the Council, a meter has been tampered with, the Council (without prejudice to the other remedies available) may declare the reading void and estimate discharge as provided above.

### **11.18 Sampling and analysis**

- 11.18.1 The Council may undertake sampling, testing and monitoring to determine if:
- (a) A discharge complies with the provisions of Part 11 Trade Waste.
  - (b) A discharge is to be classified as a permitted, conditional, or prohibited.
  - (c) A discharge complies with the provisions of Schedule 1 for permitted discharge and any consent to discharge.
  - (d) Trade waste consent charges are applicable to that discharge.
- 11.18.2 The taking, preservation, transportation and analysis of the sample will be undertaken by an authorised officer or agent of the Council, or the person discharging in accordance with accepted industry standard methods, or by a method specifically approved by the Council. The person discharging will be responsible for all reasonable costs.
- 11.18.3 Where a dispute arises as to the validity of the methods or procedures used for sampling or analysis, the dispute may be submitted to a mutually agreed independent arbitrator.

### **11.19 Monitoring**

- 11.19.1 The Council is entitled to monitor and audit any trade waste discharge for compliance. Monitoring may include any of the following:

- (a) The Council or its authorised agent will take a sample and arrange for this sample to be analysed in an approved laboratory.
  - (b) The Council will audit the sampling and analysis carried out by a self-monitoring trade waste discharger. Analysis will be performed by an approved laboratory.
  - (c) The Council will audit the trade waste consent conditions including any management plans.
- 11.19.2 At the discretion of the Council all costs of monitoring will be met by the discharger either through direct payment to the laboratory or to the Council.
- 11.19.3 Normally a single grab or composite sample is sufficient. If required the grab or composite sample can be split equally into three as follows:
- (a) One portion of the sample goes to the trade waste discharger for appropriate analysis and/or storage.
  - (b) A second portion of the sample will be analysed at a laboratory approved by the Council.
  - (c) A third portion of the sample is retained by the Council for 20 working days, for additional analysis if required.
- 11.19.4 Due consideration will be applied to any changes that could occur in retained trade waste samples and provisions to mitigate against changes will be adopted where practicable.
- 11.19.5 In all cases the samples will be handled in an appropriate manner so that the characteristics being tested for are, as far as reasonably possible, preserved.
- 11.19.6 All samples will be preserved, handled, transported and delivered to an approved laboratory according to best possible practice and approved standards.

## **11.20 Tankered Wastes**

- 11.20.1 Tankered waste must not be discharged into the Council's wastewater system by any person unless it complies with the Liquid and Hazardous Wastes Code of Practice.
- 11.20.2 The Council may accept tankered wastes for discharge at an approved location.
- 11.20.3 The following requirements apply to all tankered wastes:
- (a) Tankered wastes must be transported by a consent holder to discharge domestic septic tank or industrial wastes.
  - (b) Material safety data sheets (MSDS) must be supplied to the Council detailing the contents of a waste.
  - (c) Tankered wastes must be tested to determine their character if the contents of the waste are not known. Specialist advice on pre-treatment or acceptance may be required. The cost of all testing and advice must be borne by the consent holder.
  - (d) Tankered wastes must not be picked up and transported to the disposal site until appropriate arrangements and method for disposal have been determined by the Council.
  - (e) The Council must be given 24 hours' notice of the disposal of wastes other than those sourced from domestic septic tanks.
- 11.20.4 To prevent cross-contamination between tanker loads, the tanker must be thoroughly washed before collecting a load for disposal into the wastewater system.
- 11.20.5 Any person illegally disposing of, or causing to be disposed, tankered waste either by incorrect disclosure of contents (characteristics and/or amount) or dumping into the

Council's wastewater system other than the prescribed location will be in breach of Part 11 Trade Waste.

**11.21 Disinfected/super chlorinated water**

11.21.1 Any water used during the repair and construction of water mains must be de-chlorinated prior to the discharge into the wastewater system. Application for a temporary discharge consent must be made. Such water must not be disposed of to stormwater or adjacent water courses without appropriate approvals.

**11.22 Authorised Officers**

11.22.1 All authorised officers of the Council, or other persons authorised under section 174 or section 177 or paragraph 32 of schedule 7 of the Local Government Act 2002, will possess and produce on request warrants of authority and evidence of identity.

11.22.2 Any authorised officer may at any reasonable time enter any premises believed to be discharging trade wastes to determine any characteristic of any discharge by:

- (a) Taking readings and measurements.
- (b) Taking samples or any solids, liquids or gaseous material or any combination or mixtures of such materials being discharged.
- (c) Observing accidental occurrences and clean-up.

11.22.3 Authorisation for entry to premises is given under the Local Government Act 2002 and entry will be in compliance with the health and safety policies of that particular site.

**11.23 Transfer or termination of rights and responsibilities**

11.23.1 A trade waste consent to discharge will be issued in the name of the given consent holder. The consent holder must not, unless written approval is obtained from the Council:

- (a) Transfer to any other party the rights and responsibilities provided for under Part 11 Trade Waste, and under the consent.
- (b) Allow a point of discharge to serve another premises, or the private drain to that point to extend by pipe or any other means to serve another premises.
- (c) In particular and not in limitation of the above, allow sewage from any other party to be discharged at their point of discharge.

11.23.2 Renewal of a trade waste consent on change of ownership of premises will not be unreasonably withheld if the characteristics of the sewage remain unchanged.

11.23.3 The person discharging must give 48 hours' notice in writing to the Council of their requirement for disconnection of the discharge connection and/or termination of the discharge consent, except where demolition or relaying of the discharge drain is required, in which case the notice must be at least seven working days. The person discharging must notify the Council of the new address details for final invoicing.

11.23.4 On permanent disconnection and/or termination the person discharging may at the Council's discretion be liable for trade waste charges to the end of the current charging period.

11.23.5 When a person discharging ceases to occupy premises from which trade wastes are discharged into the wastewater system any consent granted will terminate but without relieving the person discharging from any obligations existing at the date of termination.

## **Schedule 1 of Part 11 Permitted discharge characteristics**

### **11.24 Introduction**

- 11.24.1 The nature and levels of the characteristics of any trade waste discharged to the Council system must comply at all times with the following requirements, except where the nature and levels of such characteristics are varied by the Council as part of an approval to discharge a trade waste.
- 11.24.2 The Council will take into consideration the combined effects of trade waste discharges and may make any modifications to the following acceptable characteristics for individual discharges the Council believes are appropriate.
- 11.24.3 An additional column in tables 1, 2 and 3 for mass limits may be added as required.
- 11.24.4 The nature and levels of any characteristic may be varied to meet any new resource consents or other legal requirements imposed on the Council.

### **11.25 Physical characteristics of permitted trade waste**

- 11.25.1 The 24 hour flow volume must not exceed 5 m<sup>3</sup>.
- 11.25.2 The maximum instantaneous flow rate must not exceed 2.0 L/s.
- 11.25.3 The temperature must not exceed 40 °C.
- 11.25.4 Solids
- (a) Non-faecal gross solids must have a maximum dimension not exceeding 15 mm.
  - (b) The suspended solids content of any trade waste must have a maximum concentration not exceeding 2000 g/m<sup>3</sup>. For significant industry this may be reduced to 600 g/m<sup>3</sup>.
  - (c) The settleable solids content of any trade waste must not exceed 50 mL/L.
  - (d) The total dissolved solids concentration in any trade waste will be subject to the approval of the Council having regard to the volume of the waste to be discharged, and the suitability of the drainage system and the treatment plant to accept such waste.
  - (e) Fibrous, woven, or sheet film or any other materials that may adversely interfere with the free flow of sewage in the drainage system or treatment plant must not be present.
- 11.25.5 Oil and grease
- (a) There must be no free or floating layer.
  - (b) A trade waste with mineral oil, fat or grease unavoidably emulsified, which in the opinion of the Council is not biodegradable must not exceed 200 g/m<sup>3</sup> as petroleum ether extractable matter when the emulsion is stable at a temperature of 15 °C and when the emulsion is in contact with and diluted by a factor of 10 by raw sewage, throughout the range of pH 6.0 to pH 10.0.
  - (c) A trade waste with oil, fat or grease unavoidably emulsified, which in the opinion of the Council is biodegradable must not exceed 500 g/m<sup>3</sup> when the emulsion is stable at a temperature of 15 °C and when the emulsion is in contact with and diluted by a factor of 10 by raw sewage throughout the range of pH 4.5 to pH 10.0.
  - (d) Emulsified oil, fat or grease must not exceed 100 g/m<sup>3</sup> as petroleum ether extractable matter when the emulsion is unstable at a temperature of 15 °C and when the emulsion is in contact with and diluted by a factor of 10 by raw sewage throughout the range of pH 4.5 to pH 10.0.
- 11.25.6 There must be no free layer (whether floating or settled) of solvents or organic liquids.

- 11.25.7 Emulsions of paint, latex, adhesive, rubber, plastic
- Where such emulsions are not treatable these may be discharged into the sewer subject to the total suspended solids not exceeding 1000 g/m<sup>3</sup> or the concentration agreed with the Council.
  - The Council may determine that the need exists for pre-treatment of such emulsions if they consider that trade waste containing emulsions unreasonably interferes with the operation of- the Council treatment plant e.g. reduces% UVT (ultra violet transmission).
  - Such emulsions of both treatable and non-treatable types may be discharged to the sewer only at a concentration and pH range that prevents coagulation and blockage at the mixing zone in the public sewer.
- 11.25.8 Radioactivity levels must not exceed guidelines from the Ministry of Health's Office of Radiation Safety.
- 11.25.9 Waste must not have colour or colouring substance that causes the discharge to be coloured to the extent that it impairs wastewater treatment processes or compromises the treated sewage discharge consent.

### 11.26 Chemical characteristics of permitted trade waste

- 11.26.1 The pH value must be between 6.0 and 10.0 at all times.
- 11.26.2 Organic strength
- The biochemical oxygen demand (BOD<sub>5</sub>) of any waste may be restricted where the capacity for receiving and treating BOD<sub>5</sub> is limited. A BOD<sub>5</sub> restriction may be related to mass limits.
  - Where there is no Council treatment system for organic removal the BOD<sub>5</sub> must not exceed 1000 g/m<sup>3</sup>. For significant industry this may be reduced to 600 g/m<sup>3</sup>.
- 11.26.3 The maximum concentrations permissible for the chemical characteristics of an acceptable discharge are set out in tables 1, 2 and 3.

Table 1 General chemical characteristics

Characteristic	Maximum concentration (g/m <sup>3</sup> )
MBAS (methylene blue active substances)	500
Ammonia (measured as N)	
- Free ammonia	50
- Ammonium salts	200
Kjeldahl nitrogen	150
Total phosphorus (as P)	50
Sulphate (measured as SO <sub>4</sub> )	500 1500 (with good mixing)
Sulphite (measured as SO <sub>2</sub> )	15
Sulphide – as H <sub>2</sub> S on acidification	5
Chlorine (measured as CL <sub>2</sub> )	
- Free chlorine	3
- Hypochlorite	30

<b>Characteristic</b>	<b>Maximum concentration (g/m<sup>3</sup>)</b>
Dissolved aluminium	100
Dissolved iron	100
Boron (as B)	25
Bromine (as Br <sub>2</sub> )	5
Fluoride (as F)	30
Cyanide – weak acid dissociable (as CN)	5

Table 2 Heavy metals

<b>Metal</b>	<b>Maximum concentration (g/m<sup>3</sup>)</b>	<b>Metal</b>	<b>Maximum concentration (g/m<sup>3</sup>)</b>
Antimony	10	Manganese	20
Arsenic	5	Mercury	0.05
Barium	10	Molybdenum	10
Beryllium	0.005	Nickel	10
Cadmium	0.5	Selenium	10
Chromium	5	Silver	2
Cobalt	10	Thallium	10
Copper	10	Tin	20
Lead	10	Zinc	10

Table 3 Organic compounds and pesticides

<b>Compound</b>	<b>Maximum concentration (g/m<sup>3</sup>)</b>
Formaldehyde (as HCHO)	50
Phenolic compounds (as phenols) excluding chlorinated phenols	50
Chlorinated phenols	0.02
Petroleum hydrocarbons	30
Halogenated aliphatic compounds	1
Monocyclic aromatic hydrocarbons	5
Polycyclic (or polynuclear) aromatic hydrocarbons (PAHs)	0.05
Halogenated aromatic hydrocarbons (HAHs)	0.002
Polychlorinated biphenyls (PCBs)	0.002
Polybrominated biphenyls (PBBs)	0.002 each
Pesticides (general) (includes insecticides, herbicides, fungicides and excludes organophosphate, organochlorine and any pesticides not registered for use in New Zealand)	0.2 in total



Compound	Maximum concentration (g/m <sup>3</sup> )
Organophosphate pesticides	0.1

### Schedule 2 of Part 11 Prohibited trade waste characteristics

- 11.26.4 Any discharge has prohibited characteristics if it has any solid liquid or gaseous matter or any combination or mixture of such matters that by themselves or in combination with any other matter will immediately or in the course of time:
- (a) Interfere with the free flow of sewage in the wastewater system.
  - (b) Damage any part of the wastewater system.
  - (c) In any way, directly or indirectly, cause the quality of the treated sewage or residual biosolids and other solids from any sewage treatment plant in the catchment to which the waste was discharged to breach the conditions of a consent issued under the Resource Management Act, or water right, permit or other governing legislation.
  - (d) Prejudice the health and safety risks faced by wastewater workers.
  - (e) After treatment be toxic to fish, animals or plant life in the receiving waters.
  - (f) Cause malodorous gases or substances to form that are of a nature or sufficient quantity to create a public nuisance.
  - (g) Have a colour or colouring substance that causes the discharge from any sewage treatment plant to receiving waters to be coloured.
- 11.26.5 A discharge has prohibited characteristics if it has any characteristic that exceeds the concentration or other limits specified in Schedule 1 unless specifically approved for that particular consent.
- 11.26.6 A discharge has a prohibited characteristic if it has any amount of:
- (a) Harmful solids, including dry solid wastes and materials that combine with water to form a cemented mass.
  - (b) Liquid, solid or gas that could be flammable or explosive in the wastes, including oil, fuel, solvents (except as allowed for in Schedule 1), calcium carbide, and any other material that is capable of giving rise to fire or explosion hazards either spontaneously or in combination with sewage.
  - (c) Asbestos.
  - (d) Tin (as tributyl and other organotin compounds).
  - (e) Any organochlorine pesticides.
  - (f) Wastes that contain or are likely to contain material from a genetically modified organism that is not in accordance with an approval under the Hazardous Substances and New Organisms Act. The material concerned may be from premises where the genetic modification of any organism is conducted or where a genetically modified organism is processed.
  - (g) Any healthcare waste prohibited for discharge to a wastewater system by NZS 4304 or any pathological or histological wastes.
  - (h) Radioactivity levels in excess of the guideline from the Ministry of Health's Office of Radiation Safety.

## **Part 12. Water Supply**

### **12.1 Title**

12.1.1 This is Part 12 Water Supply of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **12.2 Purpose**

12.2.1 The purpose of Part 12 Water Supply is to manage the supply of water to customers by Ōpōtiki District Council as the Water Supply Authority (WSA).

#### *Explanatory notes*

- *Part 14 Water Supply should be read in conjunction with other statutory Acts and Regulations relating to the supply of water including, but not limited to the Building Act 2004, Fire and Emergency New Zealand Act 2017, Local Government (Rating) Act 2002, Resource Management Act 1991, and Water Supply Protection Regulations 1961.*
- *Ōpōtiki District Council's catchments are not subject to Part 12 Water Supply and are protected by the Bay of Plenty Regional Natural Resources Plan.*

### **12.3 Definitions**

1.1.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **12.4 Supply of water**

12.4.1 Every application for supply of water must be made in writing on the standard WSA form.

12.4.2 The WSA will either:

- (a) Approve the application and inform the applicant of the type of water supply, the size and design of the connection to be provided to any premises, and any other conditions; or
- (b) Refuse the application, giving reasons for the refusal.

12.4.3 The applicant must be the owner or have the authority to act on behalf of the owner of the premises for which the supply is sought, and must produce written evidence of this if required.

12.4.4 A person must not act on a written authorisation to supply water that is more than six months old unless an extension of time is authorised in writing by the WSA.

12.4.5 No person will be supplied water unless the supply is authorised in writing by the WSA.

12.4.6 No person other than a contractor licensed by the Council may undertake works to connect to or install any service pipe.

12.4.7 A person must not change the level of service of water supply received, or the end use of water supplied, or change the supply between ordinary and extraordinary unless authorised in writing by the WSA.

12.4.8 The WSA is under no obligation to provide an ordinary or extraordinary supply of water.

### **12.5 Point of supply**

12.5.1 The customer is responsible for the supply pipe that joins a connection located in accordance with the Council's Code of Practice - Subdivision and Development, or as close as possible to that location where fences, walls or other permanent structures make it difficult to locate it at the required position. A customer must not locate a connection at any other position unless authorised in writing by the WSA.

12.5.2 A customer must not have more than one point of supply, unless authorised in writing by the WSA.

12.5.3 The WSA reserves the right to charge for maintenance of, or damage to, the connection.

## **12.6 Access to point of supply**

- 12.6.1 The WSA will be entitled, on the following terms, to enter premises that have a water supply on any day between 7.30am and 6pm to have access to, on and about the point of supply either without notice in order to read the water meter or with notice being given whenever possible to check, test, or undertake maintenance work.
- 12.6.2 At all other times, the WSA will give notice before entering premises except in emergency situations when authorised officers of the WSA will be entitled to enter premises that have a water supply at any hour without notice.
- 12.6.3 The customer must ensure that the area in and around the point of supply is maintained free of soil, growth, or other matter or obstruction which prevents, or is likely to prevent, convenient access by authorised officers of the WSA.

## **12.7 Fire connections**

- 12.7.1 A customer must design, maintain and repair any fire sprinkler system on his or her premises to prevent water being drawn from the system for any other purpose and must construct, install, and maintain that system in good order and for its intended purpose.
- 12.7.2 A person must not install a new connection for fire protection unless authorised in writing by the WSA. Any such connection must be installed by Council's licensed contractors at the applicant's expense and subject to any terms and conditions specified by the WSA.
- 12.7.3 The WSA will be under no obligation to provide a fire protection supply at any particular flow or pressure.
- 12.7.4 Where a fire connection has been installed in a manner or at a location so that it is likely or possible that water will be drawn from it, or from any part of it, for purposes other than fire fighting, the customer must install a connection approved by the WSA at his or her own expense.
- 12.7.5 Where the supply of water to any premises is metered, the customer must connect any fire hose reels on those premises to the metered supply and not to a dedicated fire protection connection.

## **12.8 Water meters**

- 12.8.1 Unless otherwise agreed with the WSA, the point of water metering to an individual customer is the water meter that records the amount of water used by their particular premises.
- 12.8.2 Where the point of supply is different from the point of water metering, the customer must:
- (a) Provide an approved site within the premises for the water meter.
  - (b) Take sufficient precautions to protect the water meter from damage at all times.
  - (c) Ensure the water meter is readily accessible for reading.
  - (d) Ensure that no other devices are installed in the water meter box.

## **12.9 Level of service**

- 12.9.1 The WSA will endeavour to provide water in accordance with the level of service contained in the Council's LTP.
- 12.9.2 A customer with a particular requirement for an uninterrupted level of service (flow, pressure or quality) will be responsible for providing any necessary storage, back up facilities, or equipment to satisfy that requirement.

## **12.10 Continuity of supply**

- 12.10.1 The WSA does not guarantee an uninterrupted or constant supply of water, or any maximum or minimum pressure, but will do its best to meet the continuity of supply levels.
- 12.10.2 The WSA will consult with any potentially affected persons where permanent or temporary works are planned that will substantially affect an existing supply.
- 12.10.3 Wherever practical, the WSA will make every reasonable attempt to notify the potentially affected persons of a scheduled maintenance shutdown of the supply before the work commences. Where immediate action is required and this is not practical, the WSA may shut down the supply without notification.

## **12.11 Restrictions on water use**

- 12.11.1 The customer must comply with any water use restrictions approved by the WSA when considered necessary because of drought, emergency, or to manage high seasonal or other demands. Such restrictions will be advised by public notice.

## **12.12 Estimating consumption**

- 12.12.1 If any water meter is out of repair, ceases to register, or is removed, the WSA will estimate the consumption for the period since the previous reading of that water meter based on the average of the previous four billing periods charged to the customer and the customer must pay according to the estimate. If the average of the previous four billing periods would be an unreasonable estimate due to seasonal or other causes of large variations of consumption, the WSA may take into consideration other evidence to arrive at a reasonable estimate, and the customer must pay according to that estimate.
- 12.12.2 If water metering indicates a significant increase in consumption to a premises, which is established as being caused by a previously unknown leak, the WSA may either estimate consumption as provided in clause 12.12.1, providing that the customer repairs the leak with due diligence, or the customer will be liable for the cost of water that passes through the water meter regardless of whether this is used or is the result of the leakage.
- 12.12.3 Where the seal or dial of a water meter is broken, the WSA may declare the reading void, estimate as provided in clause 12.12.1 and the customer will be liable for that cost.
- 12.12.4 Where a situation occurs, other than as provided for in clauses 12.12.1, 12.12.2, and 12.12.3, and the recorded consumption does not accurately represent the actual consumption on a property then the customer will be liable to pay the cost which will be adjusted using the best information available to the WSA. Such errors include, but are not limited to, misreading of the water meter, errors in data processing, water meters assigned to the wrong account, and unauthorised supplies.
- 12.12.5 Where an adjustment is required in favour of the WSA or the customer, this will not be backdated more than five years from the date the error was detected.

## **12.13 Customer responsibilities**

- 12.13.1 New connections will be installed, and any associated testing undertaken, by one of the Council's licensed contractors at the applicant's expense. All new connections will be vested with Council.
- 12.13.2 A customer who has altered the ground levels near the connection must alter the existing service pipe and locate the cover to the service pipe to ensure it complies with Council's Code of Practice - Subdivision and Development (or any replacement document). The work will be carried out by one of Council's licensed contractors at the owner's expense.

- 12.13.3 A customer must not use water or water pressure directly from the supply for driving lifts, machinery, generators, condensers or any other similar device unless authorised by the WSA in writing.
- 12.13.4 The customer must ascertain and monitor whether the fire protection supply available is adequate for the intended purpose.
- 12.13.5 The customer will be liable to pay for any related water supply services in accordance with the WSA's schedule of fees and charges.
- 12.13.6 The customer must not transfer to any other party the rights and responsibilities set out in Part 12 Water Supply.
- 12.13.7 In the event of a premises changing ownership, the outgoing customer must give the WSA seven calendar days' notice to arrange a final water meter reading.
- 12.13.8 The customer must give seven calendar days' notice in writing to the WSA of his or her request to terminate the supply.

#### **12.14 General conditions**

- 12.14.1 No person other than the authorised agents of the WSA, may without express approval, make any connection to or otherwise interfere with any part of the water supply system.
- 12.14.2 A person must not access and draw water from fire hydrants unless he or she is:
  - (a) An authorised officer of the WSA.
  - (b) Fire service personnel for the purposes of testing or firefighting purposes only.
  - (c) Fire hydrant licence holders during the period for which the licence has been issued.
- 12.14.3 Any person proposing to carry out excavation work must view the as-built information to establish whether or not WSA services are located in the vicinity.
- 12.14.4 At least two working days' notice in writing must be given to the WSA of an intention to excavate in the vicinity of its services. Where appropriate, the WSA will mark out to within  $\pm$  0.5m on the ground the location of its services and may nominate in writing any restrictions on the work it considers necessary to protect its services. The WSA may charge for this service.
- 12.14.5 Any person excavating and working around buried services must take due care to ensure the services are not damaged, and that bedding and backfill is reinstated in accordance with the appropriate WSA specification. Excavation within roadways is also subject to the permit process of the appropriate roading authority.
- 12.14.6 A person causing damage to a WSA service must report that damage to the WSA immediately. Repairs will be arranged by the WSA and repair costs may be charged.

## **Part 13. Traffic**

### **13.1 Introduction**

13.1.1 This is Part 13 Traffic of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **13.2 Purpose**

13.2.1 The purpose of Part 13 Traffic is to set the requirements for parking and control of vehicular and other traffic on roads under the control of Ōpōtiki District Council.

#### *Explanatory notes*

- *Refer also to Part 14 Speed Limits.*
- *Part 13 Traffic is not intended to duplicate the rules and obligations in legislation including (but not limited to) the Land Transport Act 1998, the Land Transport (Road User) Rule 2004, and the Land Transport (Traffic and Control Devices) Rule 2004.*

### **13.3 Definitions**

13.3.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **13.4 Stopping, standing and parking**

13.4.1 A person must not stop, stand, or park a vehicle or vehicle combination on any road, public car park, reserve or other public place in contravention of a restriction imposed by the Council and evidenced by appropriate signs and/or road markings.

13.4.2 Notwithstanding the provisions of clause 13.4.1 and subject to any conditions, including payment of a prescribed fee, the Council may authorise the stopping, standing, or parking of specified vehicles.

13.4.3 Except with the prior written permission of the Council, a person must not park a vehicle on a road or other land under the control or ownership of the Council for more than seven days if that vehicle cannot be easily moved at the Council's request.

13.4.4 A person must not park any vehicle in a parking space that is already occupied by another vehicle. However, up to six motorcycles (including motorcycles with sidecars attached) but no other vehicle may occupy any parking space at the same time, parked at right angles to the kerb in the space.

### **13.5 Unlawful parking**

13.5.1 A person must not park any vehicle or vehicle combination in a parking space except as permitted by the provisions of Part 13 Traffic.

13.5.2 A person must not park a vehicle or vehicle combination in a parking space so that any part of that vehicle extends beyond any line defining that space unless its size makes it necessary for the vehicle to extend onto an adjoining and unoccupied parking space.

### **13.6 Mobility parking**

13.6.1 Where the Council has reserved parking spaces as mobility parking spaces, the mobility permit must be displayed so that it is legible through the front windscreen or on the vehicle if no windscreen is fitted. The permit must not be displayed if the parking space is not being used for the benefit of the permit holder.

### **13.7 One-way roads**

13.7.1 The Council may by resolution provide for a road to be a one-way road, or provide that a road cease to be a one-way road, subject to the erection of the prescribed signs.

13.7.2 A person may only drive a vehicle or ride a horse or bicycle on roads listed as one-way roads in Part 13 Traffic in the direction specified.

### **13.8 Turning restrictions**

13.8.1 The Council may by resolution prohibit on any road, subject to the erection of the prescribed signs:

- (a) Vehicles turning from facing or travelling in one direction to facing or travelling in the opposite direction (performing a U-turns).
- (b) Vehicles or specified classes of vehicles from turning to the right or to the left or from proceeding in any other direction.

13.8.2 A person must not drive contrary to any turning restriction made under clause 13.8.1.

### **13.9 Heavy traffic restrictions and prohibitions**

13.9.1 The Council may by resolution prohibit or restrict heavy motor vehicles or specified classes of vehicles from specified roads.

13.9.2 A person must not drive a heavy motor vehicle on a road contrary to a prohibition or restriction made under clause 13.9.1.

13.9.3 Any prohibitions made under clause 13.9.1 do not apply to:

- (a) Any vehicles picking up or delivering goods to an address when alternative access is not available for this purpose.
- (b) A network utility operator or its authorised agent or contractor engaged in the provision or maintenance of a network utility operation.
- (c) Emergency vehicles, vehicle recovery services, tradespersons' vehicles or campervans as identified on signs approaching the road to which the restriction applies.
- (d) Refuse collections carried out by either the local authority or a contractor engaged by the local authority.
- (e) Any other class of heavy vehicle the Council may exclude, as identified on signs approaching the road to which the restriction applies.

### **13.10 Special vehicle lanes**

13.10.1 The Council may by resolution provide for a road, or part of a road, to be used as a special vehicle lane that may only be used by a specified class or classes of vehicle.

13.10.2 A person must not use a special vehicle lane contrary to any restriction made under clause 13.10.1.

### **13.11 Turning movements permitted by specified classes of vehicles**

13.11.1 The Council may by resolution permit turning movements by specified classes of vehicles at a traffic lane, or provide that a turning movement or turning movements by specified classes of vehicles should cease at a traffic lane, subject to the erection of the prescribed signs.

### **13.12 Weights of vehicles or loads over bridges or culverts**

13.12.1 The Council may by resolution amend Part 13 Traffic to regulate the weights of vehicles or loads that may pass over bridges or culverts or to remove any such regulation.

#### *Explanatory note*

- *Weight restrictions may be placed on bridges outside the bylaw through section 11 of the [Heavy Motor Vehicle Regulations 1974](#).*

### **13.13 Defences**

13.13.1 A person is not in breach of Part 13 Traffic if that person proves that the act or omission complained of:

- (a) Took place in compliance with the directions of an enforcement officer, a parking warden, or a traffic control device.
- (b) Was performed by an enforcement officer or a parking warden and was necessary in the execution of that person's duty.

**13.14 Exempted vehicles**

- 13.14.1 Part 13 Traffic does not apply to emergency vehicles being used in an emergency.
- 13.14.2 Clauses 13.4, 13.5, and 13.10 do not apply to medical practitioners such as doctors, district nurses and midwives who are attending an emergency.

**13.15 List of schedules**

Schedule 1 of Part 13 One way roads

Schedule 2 of Part 13 Weight or load restrictions over bridges or culverts



**Schedule 1 of Part 13 One way roads**

<b>Road</b>	<b>Section / Part</b>	<b>Permitted Direction of Travel</b>
Windsor Street	Bridge Street to Ford Street	North

**Schedule 2 of Part 13 Weight or load restrictions over bridges or culverts**

<b>Road</b>	<b>Name of Bridge or Culvert</b>	<b>Weight Limits</b>	
		<b>Maximum weight on any one axle</b>	<b>Gross weight (maximum sum of axle weights)</b>
Waiotahi Valley Back Road	14	---	10,000 kg
Pakihi Road	30	---	5,000 kg
Off Pakihi Road	31	---	5,000 kg
Takaputahi Road	35	---	10,000 kg
Stoney Creek Road	37	---	10,000 kg

## **Part 14. Speed Limits**

### **14.1 Title**

14.1.1 This is Part 14 Speed Limits of the Ōpōtiki District Council Consolidated Bylaw 2019.

### **14.2 Purpose**

14.2.1 Part 14 Speed Limits sets speed limits on roads under the jurisdiction of the Council as the road controlling authority for local roads in the Ōpōtiki district.

### **14.3 Commencement**

14.3.1 The speed limits described in the schedules come into force on the date specified in the schedules.

### **14.4 Definitions**

14.4.1 Refer to Part 1 Introduction for definitions and provisions that apply to this part.

### **14.5 Setting of speed limits**

14.5.1 The roads or areas described in the attached schedules are declared to have the speed limits specified in the schedules.

### **14.6 List of schedules**

Schedule 1 of Part 14 Roads with a Speed Limit of 10km/h

Schedule 2 of Part 14 Roads with a Speed Limit of 20km/h

Schedule 3 of Part 14 Roads with a Speed Limit of 30km/h

Schedule 4 of Part 14 Roads with a Speed Limit of 40km/h

Schedule 5 of Part 14 Roads with a Speed Limit of 50km/h

Schedule 6 of Part 14 Roads with a Speed Limit of 60km/h

Schedule 7 of Part 14 Roads with a Speed Limit of 70km/h

Schedule 8 of Part 14 Roads with a speed limit of 80km/h

Schedule 9 of Part 14 Roads with a speed limit of 90km/h

Schedule 10 of Part 14 Roads with a speed limit of 100km/h

Schedule 11 of Part 14 Roads with Variable Speed Limit

Schedule 12 of Part 14 Roads with a Holiday Speed Limit

Schedule 13 of Part 14 Roads with a Minimum Speed Limit

### Schedule 1 of Part 14 Roads with a Speed Limit of 10km/h

The roads or areas described in this schedule are declared to have a speed limit of **10 km/h**.

Road	Description	Date effective
	NONE	

### Schedule 2 of Part 14 Roads with a Speed Limit of 20km/h

The roads or areas described in this schedule are declared to have a speed limit of **20 km/h**.

Road	Description	Date effective
	NONE	

### Schedule 3 of Part 14 Roads with a Speed Limit of 30km/h

The roads or areas described in this schedule are declared to have a speed limit of **30 km/h**.

Road	Description	Date effective
	NONE	

### Schedule 4 of Part 14 Roads with a Speed Limit of 40km/h

The roads or areas described in this schedule are declared to have a speed limit of **40 km/h**.

Road	Description	Date effective
	NONE	

### Schedule 5 of Part 14 Roads with a Speed Limit of 50km/h

The roads or areas described in this schedule are declared to be urban traffic areas that have a speed limit of **50 km/h**, except for those roads or areas that are described as having a different speed limit in the appropriate schedule of Part 14 Speed Limits.

Road	Description	Date effective
	<b>At Ōpōtiki Town:</b> All that area contained within a line commencing at a point on the south-western end of Union Street on the bank of the Waioeka River, thence north-easterly and south-easterly generally along the bank of the Waioeka River, Ōpōtiki Harbour, and the Otara River bank, to the northern side of the No. 35 State Highway (Ōpōtiki to Gisborne via Te Araroa); thence westerly, generally along the northern side of the said highway to a point opposite the eastern side of Goring Street; then across the said highway by a right line from its northern to its southern side; thence easterly, generally, along the southern side of the said state highway to the western bank of the Otara River; thence south-easterly, generally, along the western bank of the Otara River to a point adjacent to the eastern end of Duke Street; thence westerly by a right line along the southern side of Duke Street to the commencing point.	
<b>Abbot Lane</b>	Entire length	
<b>Albert Street</b>	Entire length	
<b>Bal Neavis Place</b>	Entire length	
<b>Brabant Street</b>	Entire length	
<b>Bridge Street</b>	Entire length <b>Note:</b> Shares section with State Highway 2.	
<b>Buchanan Street</b>	Entire length	

Road	Description	Date effective
<b>Chatfield Place</b>	Entire length	
<b>Church Street</b>	Entire length	
<b>Dawson Drive</b>	Entire length	
<b>Duke Street</b>	Entire length	
<b>Edna Place</b>	Entire length	
<b>Elliott Street</b>	Entire length <b>Note:</b> Shares section of road with State Highway 2	
<b>Fisher Place</b>	Entire length	
<b>Ford Street</b>	Entire length	
<b>Forsyth Street</b>	Entire length	
<b>Fromow Road</b>	Entire length	
<b>Goring Street</b>	Entire length	
<b>Grant Road</b>	Entire length	
<b>Grey Street</b>	Entire length	
<b>High Street</b>	Entire length	
<b>Hukutaia Road</b>	Entire length	
<b>Kelly Street</b>	Entire length	
<b>King Street</b>	Entire length	
<b>Mission Place</b>	Entire length	
<b>Moody Place</b>	Entire length	
<b>Nelson Street</b>	Entire length	
<b>Payne Avenue</b>	Entire length	
<b>Petersen Place</b>	Entire length	
<b>Pilkington Place</b>	Entire length	
<b>Potts Avenue</b>	Entire length	
<b>Princess Street</b>	Entire length	
<b>Richard Street</b>	Entire length	
<b>Roache Road</b>	Entire length	
<b>Sedgewick Road</b>	Entire length	
<b>Service Lane</b>	Entire length	
<b>St John Street</b>	Entire length <b>Note:</b> Shares section with State Highway 35	
<b>Stanley Place</b>	Entire length	
<b>Stewart Street</b>	Entire length	
<b>Sundell Place</b>	Entire length	
<b>Te Papa Place</b>	Entire length	
<b>Travis Place</b>	Entire length	
<b>Union Street</b>	Entire length	
<b>View Road</b>	Entire length	
<b>Victoria Street</b>	Entire length	

<b>Road</b>	<b>Description</b>	<b>Date effective</b>
<b>Wellington Street</b>	Entire length	
<b>Wharf Street</b>	Entire length	
<b>Windsor Street</b>	Entire length	
<b>Woodlands Road</b>	From the intersection with State Highway 2 to a point 140 metres measured southerly, generally along the said road from Grant Road.	
<b>At Waihau Bay: Orete Point Road</b>		
<b>At Te Kaha: Te Maara Place Rawinia Place Te Kaha Hotel Road Te Kaha Church Road</b>		
<b>At Te Kopua: Para Rauaruhe Crescent</b>		
<b>At Waiotahi Drifts: Waiotahi Drifts Boulevard Arakotipu Boulevard Muriwai Boulevard Rangihaerepo Key Patuone Key Te Karaka Key Rimu Rimu Key Kukumoa Key Pakihikura Key</b>		
<b>Whakaari Place</b>		
<b>Paerata Ridge Road</b>	From a point 130 metres in a south easterly direction from the intersection with State Highway 2 to a point 110 metres in a southerly direction past the intersection with Thompson Road	
<b>Ōhiwa Harbour Road</b>	From a point 390 metres in a northerly direction from the intersection with Reeve Road to the end of Ōhiwa Harbour Road	
<b>Dip Road</b>	From the intersection with Woodlands Road to a point 240 metres generally northerly along Dip Road.	
<b>Woodlands Road</b>	From the intersection with Woodlands Road to point 120 metres in a northerly direction along Dip Road.  From a point 125 meters measured generally in a north-easterly direction along Woodlands Road from the intersection with Dip Road, to a point 125 metres in a southerly direction along Woodlands Road from the intersection with Dip Road.	
<b>Omaio School Road</b>		

Road	Description	Date effective
<b>Omaio Pa Road</b>		
<b>Omarumutu Road</b>	From a point 1340 metres measured generally southerly from the intersection with State Highway 35 to a point 1530 meters measured generally southerly from the intersection with State Highway 35.	
<b>Bryan Road</b>		
<b>Wagner Place</b>		
<b>Ōhiwa Beach Road</b>	From a point 1160 metres measured generally northerly from the intersection with Ōhiwa Harbour Road to the end of Ōhiwa Beach Road.	

#### Schedule 6 of Part 14 Roads with a Speed Limit of 60km/h

The roads or areas described in this schedule are declared to have a speed limit of **60 km/h**.

Road	Description	Date effective
	NONE	

#### Schedule 7 of Part 14 Roads with a Speed Limit of 70km/h

The roads or areas described in this schedule are declared to have a speed limit of **70 km/h**.

Road	Description	Date effective
<b>Gault Road</b>	From Otara Road to a point 180 metres measured generally easterly along Gault Road.	
<b>Otara Road</b>	From State Highway 2 to a point 50 metres measured generally south-easterly from the intersection with Gault Road along Otara Road.	
<b>Kutarere Cemetery Road</b>		
<b>Kutarere Wharf Road</b>	From State Highway 2 to a point 230 metres measured generally westerly along Kutarere Wharf Road.	
<b>Copenhagen Road</b>		
<b>Copenhagen Loop Road</b>		

#### Schedule 8 of Part 14 Roads with a speed limit of 80km/h

The roads or areas described in this schedule are declared to have a speed limit of **80 km/h**.

Road	Description	Date effective
<b>Baird Road</b>		

#### Schedule 9 of Part 14 Roads with a speed limit of 90km/h

The roads or areas described in this schedule are declared to have a speed limit of **90 km/h**.

Road	Description	Date effective
	NONE	

### Schedule 10 of Part 14 Roads with a speed limit of 100km/h

The roads or areas described in this schedule are declared to have a speed limit of **100 km/h**.

Road	Description	Date effective
Airstrip Road		
Amokura Road		
Apanui Road		
Appleton Road		
Armstrong Road		
Beach Road		
Block Access Road		
Browns Road		
Clarks Cross Road		
Crooked Road		
Dickensons Road		
Dip Road	Except for that section described in Schedule 5.	
Dr Reid Road		
Dunlops Road		
Factory Road		
Frasers Road		
Gabriels Gully Road		
Gaskills Road		
Gaskills East Road		
Gault Road	Except for that section described in Schedule 7.	
Gows Road		
Hanaia Road		
Harrisons Road		
Hiwarau Road		
Jackson Road		
Kutarere Wharf Road	Except for that section described in Schedule 7.	
Looneys Road		
MacDonalds Road		
Maraenui Pa Road		
Matchitts Road		
Maxwells Road		
McCarthy Road		
McGinleys Road		
McGregors Road		
McKay (Herema) Road		
McNabbs Road		
McRaes Road		
Mihaere Road		
Motu Road		
Ngarue (Kemps) Road		

<b>Road</b>	<b>Description</b>	<b>Date effective</b>
<b>Ōhiwa Beach Road</b>	Except for that section described in Schedule 7.	
<b>Ōhiwa Harbour Road</b>	Except for that section described in Schedule 5.	
<b>Ōhiwa Loop Road</b>		
<b>Old Creamery Road</b>		
<b>Omarumutu Road</b>	Except for that section described in Schedule 5.	
<b>Opape Beach Road</b>		
<b>Orete Forest Road</b>		
<b>Otara Road</b>	Except for that section described in Schedule 7.	
<b>Otara East Road</b>		
<b>Otutehapani Road</b>		
<b>Paerata Ridge Road</b>	Except for that section described in Schedule 5.	
<b>Pakihi Road</b>		
<b>Papanui Road</b>		
<b>Parkinsons Road</b>		
<b>Pile Road</b>		
<b>Pohutukawa Drive</b>		
<b>Pohutukawa Drive Extn</b>		
<b>Putiki Road</b>		
<b>Rankins Road</b>		
<b>Redpaths Road</b>		
<b>Reeves Road</b>		
<b>Ruatuna Road</b>		
<b>Snells Road</b>		
<b>Stoney Creek Road</b>		
<b>Stump Road</b>		
<b>Tablelands Road</b>		
<b>Taitua Road</b>		
<b>Takaputahi Road</b>		
<b>Tawaroa Station Road</b>		
<b>Thompson Road</b>		
<b>Tirohanga Road</b>		
<b>Toones Road</b>		
<b>Tutaetoko Road</b>		
<b>Vanstone Road</b>		
<b>Vedders Road</b>		
<b>Verralls Road</b>		
<b>Waiata Road</b>		
<b>Wainui Road</b>		
<b>Wainui (Torere) Road</b>		
<b>Waiioeka Pa Road</b>		
<b>Waiorore Road</b>		
<b>Waiotahi Back Road</b>		



Road	Description	Date effective
Waiotahi Valley Road		
Wairakaia Road		
Wairata Road		
Walkers Road		
Walkers Road Extn		
Warringtons Road		
Wi Tupaea Road		
Woodlands Road	Except for those sections described in Schedules 5 and 7.	

#### **Schedule 11 of Part 14 Roads with Variable Speed Limit**

The roads or areas described in this schedule are declared to have a variable speed limit as specified in this schedule.

Road	Speed Limit	Description	Date effective
		NONE	

#### **Schedule 12 of Part 14 Roads with a Holiday Speed Limit**

The roads or areas described in this schedule are declared to have a holiday speed limit as specified in this schedule.

Road	Speed Limit	Description	Date effective
		NONE	

#### **Schedule 13 of Part 14 Roads with a Minimum Speed Limit**

The roads or areas described in this schedule are declared to have a minimum speed limit as specified in this schedule.

Road	Speed Limit	Description	Date effective
		NONE	