



Statement of Proposal

Review of Part 8 – Animal Control of the Consolidated Bylaws 2020

Monday 30 August 2021
A251111

Introduction

This statement of proposal has been prepared in accordance with Sections 83 and 86 of the Local Government Act 2002 (the Act).

Bylaw making powers

Bylaws are rules made by local authorities that affect how people live, work and play. They help councils manage problems or issues that are considered significant in a local area in a way that best meets the community's needs.

Section 145 of the Act states that a territorial authority may make bylaws for one or more of the following purposes:

- a. protecting the public from nuisance
- b. protecting, promoting and maintaining public health and safety
- c. minimising the potential for offensive behaviour in public places.

Under Section 146 of the Act, territorial authorities have specific powers to make bylaws for the purposes of

- a. regulating 1 or more of the following:
 - i. on-site wastewater disposal systems
 - ii. waste management
 - iii. trade wastes
 - iv. solid wastes
 - v. keeping of animals, bees and poultry
 - vi. trading in public places.
- b. managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure with 1 or more of the following:
 - i. water races
 - ii. water supply
 - iii. wastewater, drainage, and sanitation
 - iv. land drainage
 - v. cemeteries
 - vi. reserves, recreation grounds, or other land under the control of the territorial authority.

Other relevant legislation that empowers territorial authorities to make bylaws includes (but is not limited to):

- Reserves Act 1977
- Health Act 1956
- Land Transport Act 1998.

Reasons for the proposal and scope of the review

Bylaws proposed to be amended

ŌDC proposes to amend Part 8 – Animal Control of the Consolidated Bylaws in response to the nuisance that is being caused by roaming horses in the urban township of the district.

Options considered by Council

In developing the proposal, the Council considered the following options:

Option	Advantages	Disadvantages
Retain current Consolidated Bylaws with no changes	Maintains status quo.	Council does not have any statutory tool to address the issue of horses being kept in the township. The issue of roaming horses, and safety of road users in particular, remains an unresolved issue.
Amend the Consolidated Bylaws as set out in the Statement of Proposal (ban horses from being kept within the township, as defined in draft Schedule 2 map).	The risk of roaming horses is reduced as there will be no horses kept in town. Any horses in town will be under effective control of a rider at all times, or as part of an organised event. The health and safety risk of a roaming horse to the public at large (e.g., road users and pedestrians) is reduced within the township. Horses will not be able to graze on the township stop banks, therefore reducing damage and flooding risk	People will not be able to keep horses within the township in secure boundaries.

Summary of proposal

Bylaws proposed to be amended

The purpose of bylaws is to enable councils to develop regulations to deal with local issues.

ŌDC has determined that the issues caused to the public at large by roaming horses in the township will be appropriately addressed by the amendment of Part 8 – Animal Control of the Consolidated Bylaws.

Report on determinations under section 155 of the Local Government Act 2002

Council must determine whether a bylaw is the most appropriate method of addressing the perceived problem, under section 155 of the Local Government Act 2002.

If it is the most appropriate method, Council must determine whether the proposed bylaw is the most appropriate form of bylaw and gives rise to any implications under the New Zealand Bill of Rights Act 1990.

In ŌDC's view, the proposed amendment to Part 8 – Animal Control of the Consolidated Bylaws is authorised by the bylaw-making powers conferred on Council under the Local Government Act 2002, does not conflict with existing New Zealand law, and is not unreasonable.

It is ŌDC's view that Part 8 – Animal Control is an appropriate method to enable Council to manage the problem of roaming horses within the urban township of Ōpōtiki and that it does not give rise to any implications under the New Zealand Bill of Rights Act 1990.

Consultation and submissions

ŌDC wants your feedback about the proposed changes to part 8 of the consolidated bylaws. A copy of Part 8 of the Consolidated Bylaws is available to the Ōpōtiki District Council website: www.odc.govt.nz.

Submissions are open from Thursday 26 August to Thursday 28 October 2021 (eight-week consultation period).

Submissions will close on Thursday 28 October 2021.

Please note that any details that are included as part of your submission will be made public after the consultation period closes. If you do not wish for any details to be made public, please note this in the submission.

Your submission should include your full name and contact details, and whether you wish to speak at a Council hearing in support of your submission.

Ōpōtiki District Council will contact all submitters who wish to be heard in writing to confirm the date, time and venue of the hearing.

Summary of proposed changes to the consolidated bylaws

Proposed amendment to Part 8 – Animal Control

The purpose of amending Part 8 – Animal Control of the Consolidated Bylaws is to address the health and safety concerns and nuisance issues to the public at large caused by roaming horses in Ōpōtiki township.

The main changes proposed between the part 8 of the 2020 bylaw and part 8 of the 2021 bylaw are:

- add new section, 8.9 Horse keeping
- add new clause 8.9.1, obligating animal owners not to keep their horses in the township (in paddocks, tethered or otherwise), as denoted on the proposed map in draft schedule 2
- include an explanatory note stating horses which are ridden and kept under the effective control of the rider are permitted in the township
- add new clause, 8.9.2, stating that horses may be kept in the township temporarily for organised events only
- include an explanatory note stating that the temporary keeping of horses in the township for organised events must directly relate to the event and must be kept securely at all times will in the township for organised events
- renumber existing sections within part 8 to incorporate the proposed clause 8.9.
- add new schedule to part 8 showing horse keeping prohibited area as map
- minor grammatical changes to some wording in part 8.

Proposed additional definition in bylaws

The purpose of adding a new definition to the bylaw is to assist in the understand of the proposed new clause of Part 8.

The main change is

- add new definition of 'township' to the Part 1 Clause 1.5 – Definitions.



Ōpōtiki District Council
STRONG COMMUNITY STRONG FUTURE

Ōpōtiki District Council

CONSOLIDATED BYLAWS 2020

Adopted at an Ordinary Council meeting on 25 August 2020

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Preface

The Ōpōtiki District Council Consolidated Bylaw 2019 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 Bylaw 2019.

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.

Definitions

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:
 - (d) temporary and short-term parking of a motor vehicle:
 - (e) recreational activities commonly known as day-trip excursions:
 - (f) resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.
 - (3) In subsection (1):
 - camping ground means:
 - (g) a camping ground that is the subject of a current certificate of registration under the *Camping-Grounds Regulations 1985*; and
 - (h) any site at which a fee is payable for camping at the site
 - Great Walks Track means:
 - (i) a track specified in Schedule 1; and
 - (j) 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:
 - (c) the classification; and
 - (d) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and
 - (e) the right to object to the classification under section 33B; and
 - (f) 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 dwelling house, 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 guardian*
- but 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:*
 - (h) *a street; and*
 - (i) *a motorway; and*
 - (j) *a beach; and*
 - (k) *a place to which the public have access, whether as of right or not; and*
 - (l) *all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in paragraph (d); and*
 - (m) *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.

Township means the area as identified in Map 1 of Schedule 2 in Part 8 – Animal Control

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 0.
- 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 0 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 0 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 0.
- 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 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:

- Ensure the animal is not kept in a manner that creates a nuisance, endangers, or is likely to endanger, public health or safety.
- 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.
- 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 0.

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

- Keep any stock in an urban area.
- Tether, or otherwise leave out, stock to graze on any public place (especially public roadways and margins).
- Use any road frontage as a stock race.
- 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 0 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 Horse keeping

- 8.9.1 Horses must not be kept in the Ōpōtiki township.

Explanatory note:

- *Refer to definition of township and Schedule 2 of Part 8 for map of area in which it is prohibited to keep horses*

- 8.9.2 Horses may be kept in the Ōpōtiki township temporarily for organised events only.

Explanatory notes:

- *Horses which are kept in town for organised events can only be done so temporarily and must relate to the organised event.*

- Any horses kept in the Ōpōtiki township temporarily must be kept secure at all times.

8.9.3 A person may ride a horse in the Ōpōtiki township as long as it remains under effective control of the rider at all times.

Explanatory notes:

- Refer to clause 8.10 in relation to riding horses in public places.

8.10 Control of horse riding in public places

- 8.10.1 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.
- 8.10.1 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.
- 8.10.3 Except the written consent of the Council or an authorised officer, a person must not ride a horse in a public place 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.
- 8.10.4 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 0.
- 8.10.5 The Council will install signs to indicate the areas where the prohibitions in clauses 0 and 0 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.

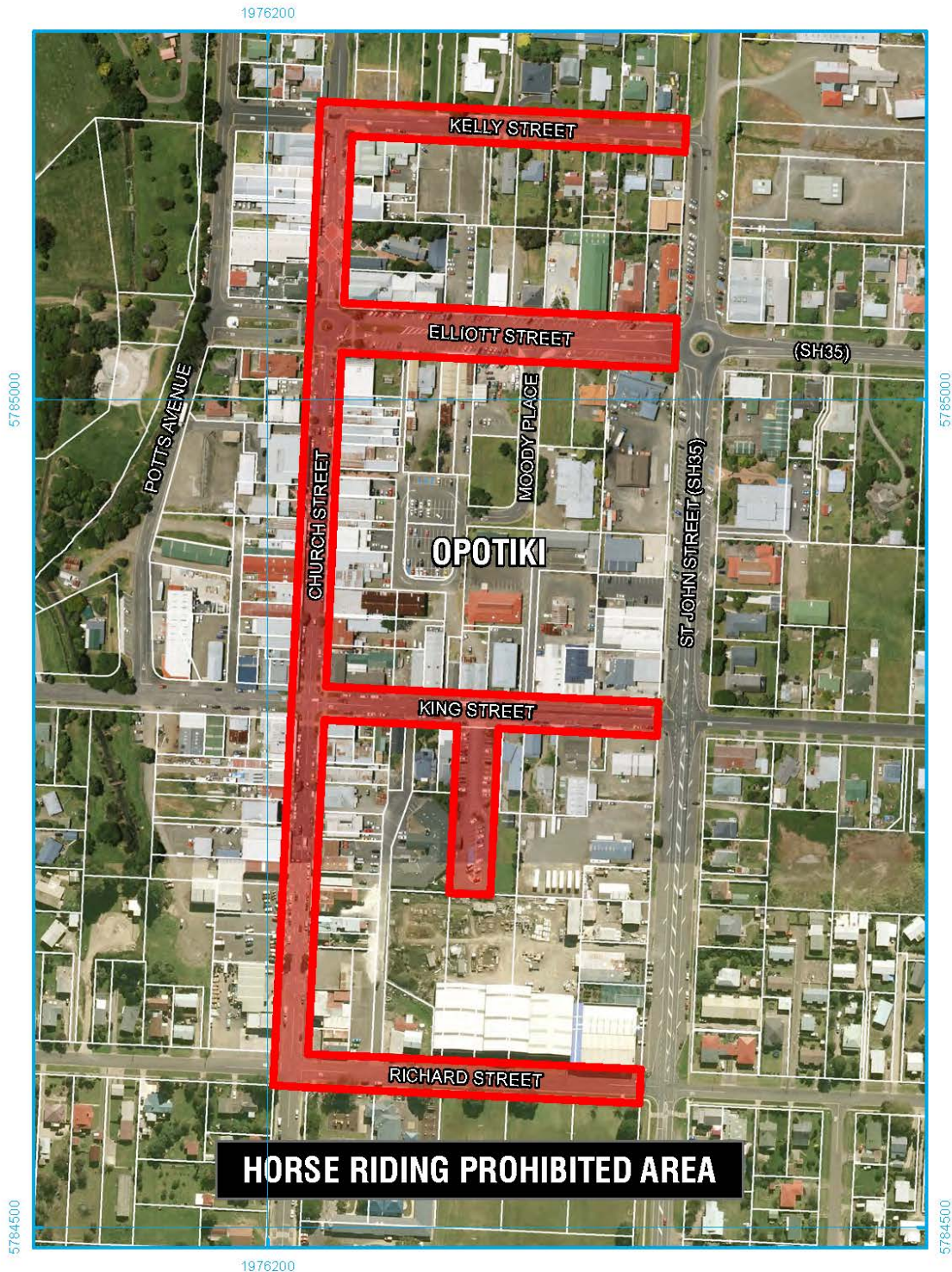
8.11 Driving stock on roads

- 8.11.1 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.
- 8.11.2 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 0 of this Bylaw.
- 8.11.3 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.
- 8.11.4 Without limiting the effect of clauses 0 and 0, 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 driver 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 driving may exceed 20 kilometres.
- 8.11.5 Any person wishing to drive stock along a road who is unable to comply with the conditions in clause 0 may apply in writing to the Council for an exemption.
- 8.11.6 This provision does not apply to dairy herds being driven along or crossing a road in compliance with clause 0 of this Bylaw.
- 8.12 Crossing places for dairy herds**
- 8.12.1 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.
- 8.12.2 The Council may, by resolution and following written application, grant any farmer an exemption from the requirement in clause 0 to construct a stock underpass or approved crossing place.
- 8.12.3 An exemption under clause 0 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 0 will also need to be successful in obtaining a permit under clauses 0(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

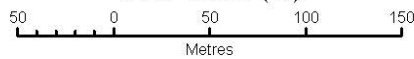
Map 1: Horse riding prohibited area in Ōpōtiki town centre



HORSE RIDING PROHIBITED AREA

Opotiki Town Centre, Opotiki

Scale 1:3000 (A4)



DRAFT 5/07/2019

GSP-592237

Sheet 1 of 1

Printed 5/07/2019

Schedule 2 of Part 8 Animal Control Horse keeping prohibited area in Ōpōtiki township

Map 1: Horse keeping prohibited area in Ōpōtiki township



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DRAFT Part 8 Schedule 2 Map 1

Projection: NZGD_2000_New_Zealand_Transverse_Mercator
 SCALE 1 : 18,056
 Date Printed: 9 August 2021

