



# Draft Traffic and Speed Limits BYLAW

*1 July 2018*

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The Whakatāne District Council makes this bylaw pursuant to sections 145 and 146 of the Local Government Act 2002, section 22AB of the Land Transport Act 1998, the Land Transport (Road User Rule) 2004, the Land Transport Rule: Traffic Control Devices 2004 and the Land Transport Rule: Setting of Speed Limits 2017.

#### 1. SHORT TITLE AND COMMENCEMENT

This bylaw is the Whakatāne District Council Traffic and Speed Limits Bylaw.

The Bylaw shall come into force throughout the Whakatāne District on 1 July 2018.

#### 2. REVOCATION

The Whakatāne District Council Consolidated Bylaw 2008, Part 12: Traffic and Speed Limits Bylaw is hereby revoked on the day this bylaw comes into force.

#### 3. PURPOSE

The purpose of this bylaw is to set the requirements for parking and control of vehicular and other traffic on all roads under the control or ownership of the Whakatāne District Council.

The Traffic and Speed Limits Bylaw is divided into seven parts:

- Part One: Introduction
- Part Two: Parking and Other Matters
- Part Three: Traffic
- Part Four: Traffic Control – Other Matters
- Part Five: Speed Limits
- Part Six: Speed Limits - Offences and Penalties
- Part Seven: Exceptions

The provisions of this Bylaw are in addition to other parking and traffic provisions contained in relevant legislation and regulations.

#### 4. INTERPRETATION

APPROVAL or APPROVED means that it is approved in writing by the Council, either by resolution of the Council or by an authorised officer of the Council.

AUTHORISED OFFICER means any person delegated, appointed, or authorised in writing by the Chief Executive or by the Council to act on its behalf and with its authority and includes a parking warden appointed by the Council pursuant to the provisions of the Land Transport Act 1998 and an enforcement officer appointed pursuant to the provisions of the Land Transport Act 1998, or any Police Officer.

BERM – refer to “Verge”.

BYLAW means a Bylaw of the Council for the time being in force, made under the provisions of any enactment or authority enabling the Council to make bylaws.

COMPRESSION ENGINE BRAKE (also known as a Jacob's engine brake) is an engine braking mechanism installed on some diesel engines. When activated, it opens exhaust valves in the cylinders after the compression cycle, releasing the compressed air trapped in the cylinders, and slowing the vehicle.

COUNCIL means the Whakatāne District Council or any officer authorised to exercise the authority of the Council.

COUNCIL OFFICER means any officer of the Whakatane District Council authorised by the Council to take action in relation to this Bylaw or to undertake the duties of a Council Officer under this bylaw and any Person appointed specially or generally by the Council to enforce the provisions of this Bylaw.

DISTRICT has the meaning assigned to that term in section 5(1) of the Local Government Act 2002.

DRIVER has the meaning assigned to that term in section 2 of the Land Transport Act 1998.

FOOTWAY OR FOOTPATH means as much of any road or public place that is laid out or constructed by the authority of the Council for pedestrian use; and includes the edging, kerbing, and channelling thereof.

GOODS means all types of movable personal property including (by way of example and not by way of limitation) animals, mail, farm and forestry produce which are carried as cargo on a heavy motor vehicle but does not include the personal effects of the driver of a heavy motor vehicle nor of any other person directly associated with the operation of a heavy motor vehicle.

GOODS VEHICLE has the same meaning as the Land Transport Rule: Heavy Vehicles 2004. Elements pertinent to this Bylaw are replicated below:

- Light Goods Vehicle (Class NA): A goods vehicle that has a gross vehicle mass not exceeding 3.5 tonnes.
- Medium Goods Vehicle (Class NB): A goods vehicle that has a gross vehicle mass exceeding 3.5 tonnes but not exceeding 12 tonnes.
- Heavy Goods Vehicle (Class NC): A goods vehicle that has a gross vehicle mass exceeding 12 tonnes.
- Very Light Trailer (Class TA): A single-axled trailer that has a gross vehicle mass not exceeding 0.75 tonnes.
- Light Trailer (Class TB): A trailer (other than a Class TA trailer) that has a gross vehicle mass not exceeding 3.5 tonnes.
- Medium Trailer (Class TC): A trailer that has a gross vehicle mass exceeding 3.5 tonnes but not exceeding 10 tonnes.
- Heavy Trailer (Class TD): A trailer that has a gross vehicle mass exceeding 10 tonnes.

HEAVY MOTOR VEHICLE has the same meaning as defined in Part 2 of the Land Transport Rule: Heavy Vehicles 2004.

HEAVY TRAILER - refer to "Goods Vehicle".

HOURS OF DARKNESS means:

- Any period of time between half an hour after sunset on any one day and half an hour before sunrise on the next day; or

- Any other time when there is insufficient daylight to render clearly visible any stock, person, vehicle, or animal at a distance of 100 metres.

MAP includes a chart or plan or other article of a similar nature.

MOTOR VEHICLE has the meaning assigned to that term in section 2(1) of the Land Transport Act 1998.

NETWORK UTILITY OPERATOR means a network utility operator as defined in the Resource Management Act 1991.

OFFENCE means any act or omission in relation to this Bylaw for which any person can be punished either on indictment or by summary process.

MOBILITY PARKING PLACE means a Parking Place set aside under clause 10 of this Bylaw.

MOBILITY PERMIT means a permit issued by the New Zealand Crippled Children Society (CCS) Incorporated to persons with physical disabilities for the purposes of its Operation Mobility programme.

OWNER means in relation to any vehicle the person lawfully entitled to the possession thereof.

PARKING has the meaning assigned to that term in section 2 of the Land Transport Act 1998.

PARK – Refer to “Parking”.

PARKING EXEMPTION PERMIT means a permit issued by an authorised Council Officer to allow a vehicle to be parked contrary to the regulations for that parking area.

PARKING PLACE has the meaning assigned to that term in section 591(6) of the Local Government Act 1974.

PARKING WARDEN means any person appointed by the Council to hold the position, and carry out the duties of a Parking Warden for the purposes of this Bylaw and the Land Transport Act 1998.

PASSENGER means a person carried in or on such vehicle other than the driver in respect of any taxicab or passenger service vehicle.

PASSENGER SERVICE VEHICLE has the meaning assigned to that term in section 2 of the Land Transport Act 1998 and includes a taxicab and a bus.

PERSON means a natural person and also a body of persons, whether corporate or non-corporate.

PERSON DRIVING OR IN CHARGE OF ANY HEAVY MOTOR VEHICLE means the driver or operator of that heavy motor vehicle.

PUBLIC STAND means any area set aside pursuant to the Bylaw, for use by a passenger service vehicle for the loading or unloading of passengers.

PUBLICLY NOTIFY or words of a similar meaning means published on at least one occasion in a newspaper circulating in the Whakatane District, or under emergency conditions by the most practical means available at that time.

RESERVE means any open space, plantation, park, garden or ground set apart for public recreation or enjoyment which is under the management or control of the Council.

ROAD has the same meaning as in section 315(1) of the Local Government Act 1974 and does not include any State Highways controlled by the New Zealand Transport Agency within the Whakatāne District. "Road" is defined in the Local Government Act 1974 as the whole of any land which is within a district, and which:

- (a) Immediately before the commencement of this Part of this Act 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 of this Act; 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 of this Act, any access way or service lane which before the commencement of this Part of this Act 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 of this Act or is declared by the Minister of Lands as an access way or service lane on or after the 1st day of 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 Roadway Powers Act 1989.

ROAD RESERVE means that portion of any road that lies between the property boundaries on either side and includes the verge, footpath, drainage, carriageway and any other part whether formed or unformed.

ROADWAY means that portion of the road used or intended for use by vehicular traffic in general.

SALE OR SELL includes barter, and also includes offering or attempting to sell or receiving for sale, or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale, and refers only to sale within the District for human consumption or use. Food shall be deemed to be for sale which, having been ordered, purchased, or sold, is held for delivery to the purchaser, or is in process of delivery to the purchaser, by the vendor or his servant or agent.

SERVICE LANE has the meaning assigned to that term in section 315(1) of the Local Government Act 1974.

SHARED USE PATHWAY means any footpath also authorised for use by bicycles as well as pedestrians as indicated by signage.

SPEED LIMIT has the same meaning as in the Land Transport Rule: Setting of Speed Limits 2017 and 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

does not mean the maximum permitted operating speed for classes or types of vehicle specified in any Act, regulation, or rule.

STALL includes a movable stand, mobile shop, road vehicle, fishing vehicle or similar structure vehicle or vessel that is being used for the sale of goods in any public place.

STOPPING PLACE means that portion of a roadway that is indicated as a stopping place for passenger service vehicles and includes any terminus, taxi stand or other similarly designated space.

STREET - Refer to "Road".

TAXI STAND means any area set aside by Council pursuant to clause 8 of this Bylaw for use by taxis to park while awaiting passengers.

TERRITORIAL AUTHORITY has the meaning assigned to that term in section 5(1) of the Local Government Act 2002.

URBAN TRAFFIC AREA means an area designated under the Land Transport Rule: Setting of Speed Limits 2017, or any predecessor to that Rule, that consists of one or more specified roads or a specified geographical area, to which the urban speed limit generally applies.

URBAN SPEED LIMIT is defined as 70km/h or less.

VEHICLE has the same meaning as in the Land Transport Act 1998 and:

Means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and includes a hovercraft, a skateboard, in-line skates, and roller skates; but

Does not include—

- (a) A perambulator or pushchair;
- (b) A shopping or sporting trundler not propelled by mechanical power;
- (c) A wheelbarrow or hand-trolley;
- (d) A pedestrian-controlled lawnmower;
- (e) A pedestrian-controlled agricultural machine not propelled by mechanical power;
- (f) An article of furniture;
- (g) A wheel-chair not propelled by mechanical power;
- (h) Any other contrivance specified by the rules set out in the Land Transport Act not to be a vehicle for the purposes of this definition; or
- (i) Any rail vehicle.

For clarification, the definition of vehicle includes but is not limited to bicycles and scooters, whether powered or unpowered, mopeds, motorcycles, mobility scooters, cars, utilities, SUV's, campervans, motorhomes, buses and other passenger vehicles, all classes of goods vehicles, all classes of trailers, boats, caravans, and the shell or hulk of a vehicle.

VEHICULAR CROSSING means a formed access for vehicles to enter or leave private land from or to a road.

VERGE means that portion of a road reserve between the edge of any formed vehicular carriageway and the nearest property boundaries. For definition assistance, grassed areas, gardens, footpaths and



other pedestrian areas, signs, and utility services (above, on and below ground) are generally located within the verge.

**5. GENERAL MATTERS**

- (1) The Council may by publicly notified resolution:
  - (a) prohibit or restrict the stopping, standing or parking of a vehicle of any specified class or description on any road; or
  - (b) Limit the stopping, standing or parking of a vehicle on a road to vehicles of a specified class or description; or
  - (c) Limit the period of time that a vehicle may park on any part of a road where stopping, standing or parking is limited to such vehicles; or
  - (d) Nominate intersections where “give way” or “stop” signs shall be erected; or
  - (e) Prohibit U-turns or the turning of any vehicle across the centre line, except to turn into a side street where the traffic sign or marking indicates no U-turns on roads; or
  - (f) Set aside roads or any portion of a road for angle parking; or
  - (g) Prescribe the fines for offences under this clause; or
  - (h) Install and operate pay and display machines; or
  - (i) Regulate parking on roadside verges.
- (2) Any such resolution referred to in clause 5(1) may apply to a specified class, type, weight or description of vehicle, and may be expressed or limited to apply only on specified days or times, or in respect of specified events or classes of events, or be limited to specified maximum periods of time.
- (3) The Council may mark such roads and/or erect signs on any road, as necessary to give effect to any resolution made pursuant to clause 5(1). Where roads are marked to indicate parking restrictions (for example, in the case of angle parking) vehicles must park within the road markings as indicated.
- (4) The Council may by publicly notified resolution rescind, amend or vary any resolution made under clause 5(1).

**6. PARKING**

- (1) No person shall stop, stand, or park a vehicle on any road in contravention of a restriction imposed by the Council and evidenced by appropriate signs and/or road marks.
- (2) No person shall stop, stand, or park a vehicle on any road in the opposing direction of the adjacent traffic lane.
- (3) Notwithstanding the provisions of clause 6(1) any Authorised Officer may, subject to any conditions that may be required (which may include the payment of a prescribed fee), authorise the stopping, standing or parking of specified vehicles.
- (4) No person shall be deemed to have committed an offence against clause 6(1) if he or she displays in his or her vehicle a parking exemption permit issued by an Authorised Officer of Council.

**7. DRIVING AND PARKING ON THE ROAD VERGE**

- (1) No person shall drive, stop, stand, or park a vehicle on any verge within the urban traffic area.

- (2) The owner or person in charge of any vehicle which is driven, stopped, standing or parked on any roadside verge in the urban traffic area, whether attended or unattended, shall upon the request of an Authorised Officer, move such vehicle forthwith.
- (3) If the owner or person in charge of any vehicle referred to in clause 7(1) and 7(2) cannot be located or refuses the request to move the vehicle, an Authorised Officer may take such reasonable steps as it considers appropriate to remove the vehicle from the road and may recover the costs of doing so.
- (4) Notwithstanding the provisions of clause 7(1) any Authorised Officer may issue a parking exemption permit which authorises the stopping, standing or parking of specified vehicles, subject to any conditions that may be required, and which may include the payment of a prescribed fee.

(Supporting legislation: clause 2.14 Land Transport (Road User) Rule 2004)

## **8. STOPPING PLACES FOR SPECIAL VEHICLES**

The Council may by publicly notified resolution reserve and mark out any part of a road as a stopping place or a stand for passenger service vehicles or for any other specified class of vehicle.

## **9. LOADING ZONES**

- (1) The Council may by publicly notified resolution reserve and mark out any part of a road as a loading zone.
- (2) Under any resolution made under clause 9(1) the Council may:
  - (a) limit the period of time that a vehicle may remain parked in a loading zone; and
  - (b) prohibit, restrict or limit the stopping, standing or parking of vehicles other than goods service vehicles in a loading zone.

## **10. MOBILITY PARKING PLACES**

- (1) The Council may by publicly notified resolution, reserve any part of a road as a mobility parking place for use only by any disabled person as defined in section 2 of the Disabled Persons Community Welfare Act 1975, whether that person is a passenger in, or the driver of the vehicle.
- (2) Under any resolution made under clause 10(1), the Council may restrict the stopping, standing or parking of a vehicle in mobility parking places so reserved, to holders of a mobility permit in accordance with the conditions of issue.
- (3) No driver shall cause or permit a vehicle to be parked on any part of a road in contravention of a resolution under clause 10(1) of this Part of the Bylaw.

## **11. OBSTRUCTION OF TRAFFIC**

- (1) No person shall stop, stand or park a vehicle on a road or any public place so as to cause an obstruction.
- (2) Except with the prior written permission of the Council or an Authorised Officer, and in accordance with any conditions that may be required, no person shall park a vehicle on a road or other land under the control or ownership of the Council, for any period exceeding seven days, if that vehicle has no effective motor power in or attached to it, or cannot be driven

safely. For the purposes of this clause, vehicle includes boats, trailers, caravans, and the shell or hulk of a vehicle.

- (3) The owner or person in charge of any vehicle which is stopped, standing, or parked on any road, whether attended or unattended, shall upon the request of an Authorised Officer move such vehicle for the purpose of facilitating traffic flow or preventing any obstruction on any road.
- (4) If the owner or person in charge of the vehicle referred to in clause 11(1), 11(2) and 11(3) cannot be located or refuses the request to move the vehicle, subject to sections 356 to 356B of the Local Government Act 1974 and section 113 of the Land Transport Act 1998, the Council may take such reasonable steps as it considers appropriate to remove the vehicle from the road and may recover the costs of doing so.

## **12. CHARGES FOR PARKING**

- (1) The Council may by publicly notified resolution declare any road or part of a road, where charges may be made for parking and may prescribe the method of payment to be adopted.
- (2) Any resolution made by the Council in clause 12(1) may be amended or rescinded by a further resolution of the Council.
- (3) The boundaries of areas where there are charges for parking shall be indicated by signs.
- (4) The fines for parking offences will be set by the Council as part of the Annual Plan process, in accordance with the relevant statutory provisions.

## **13. PARKING FEE TO BE PAID**

- (1) No person in charge of a vehicle shall park in a metered or pay and display space without having paid the appropriate fee and where required, correctly activated the parking meter or pay and display machine controlling the space.
- (2) Where a vehicle is parked on a space controlled by a pay and display machine, a valid receipt issued by the pay and display machine shall be placed on the dashboard at the front of the vehicle in a manner that will allow the expiry time to be seen by an Authorised Officer from outside the vehicle.
- (3) Where parking fees are to be paid, no person shall deposit any coins other than New Zealand currency. Payment may also be made by any other means indicated by signs attached to the pay and display machines or any other payment device.
- (4) The hours during which parking fees shall be paid shall be prescribed by the Council by publicly notified resolution and shall be indicated by signs.
- (5) Every person commits an offence against this Part of the Bylaw who damages or interferes with any payment device or attempts to damage or interfere with any payment device or who without authority affixes or attempts to affix any placard, advertisement or sign upon any payment device or writes, draws upon or disfigures any payment device.

## **14. HEAVY GOODS VEHICLE PARKING**

- (1) The Council may by publicly notified resolution, prescribe the roads or any portion of a road in which the parking of Heavy Goods Vehicles is regulated.
- (2) No heavy goods vehicle may be parked on the road in an urban traffic area at night except when the driver is staying overnight at a commercial registered accommodation facility.

**15. ONE WAY ROADS**

- (1) The Council may by publicly notified resolution designate a road to be a one way road.
- (2) The roads listed in the **FIRST SCHEDULE** of this Bylaw are “One Way Roads”. Council may amend the First Schedule from time to time pursuant to a resolution made under clause 15(1).

**16. NO RIGHT OR LEFT HAND TURNS AND U-TURNS**

- (1) The Council may by publicly notified resolution prohibit:
  - (a) vehicles or classes of vehicles on any road specified in the resolution from turning to the right or to the left or from proceeding in any direction;
  - (b) vehicles from facing or travelling in one direction to facing or travelling in the opposite direction (performing a U-turn) on roads specified in the resolution.
- (2) A person must not turn a vehicle to the left, or to the right, or perform a U-turn, or proceed in any other direction on any road where the Council has prohibited or restricted such movement.

**17. NO ENTRY ONTO CLOSED ROADS (ROAD CLOSED SIGNS)**

- (1) The Council may:
  - (a) By publicly notified resolution temporarily or permanently prohibit entry to all vehicles or classes of vehicle on a road or part of a road specified in the resolution;
  - (b) Temporarily close any road specified in the resolution to all vehicles or classes of vehicles where necessary for any event, repair of the road or the placement of repair of any infrastructure on or near the road, or for the management of traffic. For the avoidance of doubt, this clause does not limit any other powers the Council may have to close or restrict the entry to any road.

**18. NO ENTRY ONTO AN AREA GOVERNED BY A NO ENTRY SIGN**

The Council may at any time prohibit entry to all vehicles or classes of vehicle into an area governed by a No Entry sign.

**19. ROAD WORKS**

- (1) Without limiting the *Land Transport (Road User Rule) 2004*, any vehicle being used for the purpose of maintenance or construction of roads, or of any other utility, may be driven or parked contrary to the Bylaw with permission of an Authorised Officer, provided it is driven with due consideration of other road users and in compliance with the conditions of any traffic management plan approved for those works and has been issued a parking exemption permit.
- (2) No person shall carry out work within the road reserve without the prior approval of the Council.
- (3) No person shall carry out work in an unsafe manner within the road reserve.

## 20. DAMAGE TO INFRASTRUCTURE

No person shall interfere with, damage or remove any infrastructure associated with the provision of roading services. This includes the road structure and surface, guardrails and sighthrails, streetlights, fences, signs, markers, and roadmarking. Any damage to Council's roading infrastructure will be repaired by Council to the required standards. The matter may be taken before the Courts to recover the costs of damage.

## 21. HEAVY TRAFFIC RESTRICTIONS

- (1) No logging trucks shall travel through the urban traffic area within Ōhope, as defined in the map in Schedule 2, at any time.
- (2) No person shall drive a Heavy Goods Vehicle within the urban traffic area within Ōhope, as defined in the map in Schedule 2, or to properties on Wainui Road and the side roads off Wainui Road, between the hours of 10pm and 6am.
- (3) No Heavy Goods Vehicle, either laden or unladen, shall be driven through the urban traffic area within Ōhope as defined in the map in Schedule 2, between the hours of 6am and 10pm unless:
  - (a) That vehicle is either delivering or collecting goods within the urban traffic area within Ōhope (including Maraetōtara Road), or to properties on Wainui Road and the side roads off Wainui Road; and
  - (b) The driver can provide evidence of that activity (by way of a delivery docket, consignment note, bill of lading etc).
- (4) Notwithstanding Clauses 21(1), 20(2) and 20(3), permits may be issued by the Council in extenuating circumstances for any Heavy Goods Vehicles to travel through the urban traffic area within Ōhope.
- (5) The **SECOND SCHEDULE** of this Bylaw ("Conditions for Heavy Goods Vehicle Permits to Travel through the Ōhope urban traffic area") outlines the conditions under which a permit may be issued.
- (6) If the permit conditions are not met, the Council retains the right to suspend or revoke any issued permit.
- (7) Clauses 21(1), 21 (2) and 21(3) do not apply to:
  - (a) any ambulance, fire service vehicle or other emergency vehicle;
  - (b) campervans or passenger vehicles such as buses;
  - (c) a vehicle of a network utility operator or its authorised agent or contractor engaged in the provision of, or maintenance of a network utility operation;
  - (d) a vehicle carrying an overweight/size load with a permit to do so issued by the Council in accordance with any statutory or regulatory authority vested in or delegated to the Council;
  - (e) any contractor engaged in work for the Council; or
  - (f) any other class of vehicle that Council may specify from time to time in writing, or, if required by law, by publicly notified resolution.
- (8) The Heavy Traffic Restrictions in Clauses (21(1), 21(2) and 21(3) do not apply for any period of time when the most direct State Highway route is closed.
- (9) Any permit which allows a Heavy Goods Vehicle to travel through the urban traffic area within Ōhope, may be signed by the Mayor, Chief Executive or any Authorised Council Officer.

## **22. TEMPORARY RESTRICTIONS ON THE USE OF ROADS**

- (1) Where an Authorised Officer considers that there is, or is likely to arise at any place on a road under the control of the Council a temporary risk of:
  - (a) danger to the public or to road workers; or
  - (b) damage to the road;the Authorised Officer may temporarily restrict the use of, or speed of, or class of vehicles which may use any part of that road.
- (2) Any such restriction shall be defined by the display of temporary warning signs.

## **PART FOUR**

## **TRAFFIC CONTROL - OTHER MATTERS**

### **23. USE OF COMPRESSION ENGINE BRAKES**

No person shall at any time, operate or cause or permit to be operated a compression engine brake or similar device on any road in an urban traffic area within the district, with the following exceptions:

- (a) Ōhope Road, driving downhill towards Ōhope, between the intersection of Ōhope Road and Cliff Road and the intersection of Ōhope Road and Pohutukawa Avenue;
- (b) Mokorua Gorge Road, driving downhill towards Valley Road, between the intersection of Mokorua Gorge Road and Bridger Glade and Mokorua Gorge Road and Valley Road.

### **24. SELLING OF GOODS AND SERVICES AT INTERSECTIONS**

- (1) Except with the prior written permission of the Council or an Authorised Officer and in accordance with any conditions that may be required, no person shall, within 100 metres of an intersection on any of its approaches:
  - (a) wash or clean the windows of any vehicles for payment or donation; or
  - (b) solicit any subscription, collection or donation; or
  - (c) use the intersection area for the purposes of selling or offering any goods or services of any kind.

### **25. DISPLAYING VEHICLES ON ROADS**

No person or business shall use any road or any other public place for the keeping, placing or parking of vehicles for sale, exhibition, demonstration or storage, unless the prior written permission of the Council or an Authorised Officer is obtained.

### **26. TEMPORARY STANDS**

In all cases where no public stands are appointed by this Part of the Bylaw, an Authorised Officer shall have the power, in cases of necessity, to appoint a temporary stand, and the driver of any passenger service vehicle shall use the same in accordance with the instructions of any Authorised Officer.

## **27. AUTHENTICATION OF NOTICES**

Any notice required to be sent out or signed by or on behalf of the Council may be sent or signed by the Mayor, Chief Executive or any Authorised Council Officer.

## **28. SERVICE ON COUNCIL**

Any application or notice that is required to be served upon or delivered to the Council may be delivered at the office of the Council addressed to the Council, the Mayor or the Chief Executive.

## **PART FIVE SPEED LIMITS**

### **29. SPEED LIMITS**

The roads shown on the maps in the **THIRD SCHEDULE** of this Bylaw (“Schedule of Speed Limits”) are declared to have the speed limits as specified in the Third Schedule or plans.

### **30. URBAN TRAFFIC AREAS**

The roads within the areas identified in the **THIRD SCHEDULE** of this Bylaw (“Schedule of Speed Limits”) and as shown on the maps referred to in the Third Schedule as having a 70 km/hour or less speed limit, are designated as urban traffic areas.

### **31. RESERVES AND PARKS**

No person shall drive any vehicle in any reserve at a speed in excess of 20 km per hour.

### **32. VALIDATION OF SPEED LIMITS**

Any speed limits identified in the **THIRD SCHEDULE** of this Bylaw (“Schedule of Speed Limits”) and as shown on the plans referred to in the Second Schedule (other than 50 km/hour on roads within a designated urban traffic area and 100 km/hour on roads within a rural area), are validated.

## **PART SIX OFFENCES AND PENALTIES**

### **33. OFFENCES AND PENALTIES**

- (1) Any person who does or omits, or causes to be done or committed, any act contrary to any of the provisions of this Bylaw commits an offence and shall be liable, on summary conviction to the penalty set out in section 22AB(2) of the Land Transport Act 1998 (being a fine not exceeding \$1,000).
- (2) Any person who commits an offence against any of the provisions set out in Part Two of this Bylaw may either be subject to the penalty set out in clause 32(1) or be subject to the penalties set out in Part 1 of Schedule 1B of the Land Transport (Offences and Penalties) Regulations 1999.
- (3) In addition to clause 33 (1) and 33 (2), The Land Transport (Road User) Rule 2004 creates a number of offences in relation to the stopping, standing, parking and operation of vehicles on the roads.



- (4) Offences, penalties and fees relating to the infringement of speed limits are provided for in the relevant provisions of the Land Transport Act 1998. These do not change as a result of this Part of the Bylaw.
- (5) The fines for parking offences are listed in the **FOURTH SCHEDULE** which is attached for information purposes only. The **FOURTH SCHEDULE** does not form part of the bylaw.

## PART SEVEN EXCEPTIONS

### 34. EXCEPTIONS

The exceptions to this bylaw are set out in the Land Transport (Road User) Rule 2004 and are repeated here for ease of reference.

General exceptions:

- (1) A person is not in breach of this Bylaw if that person proves that:
  - (a) the act or omission complained of took place in response to a situation on a road; and
  - (b) the situation was not of the person's own making; and
  - (c) the act or omission was taken -
    - (i) to avoid the death or injury of a person; or
    - (ii) if the act or omission did not create a risk of death or injury or greater damage to any property, to avoid damage to any property.
- (2) Clause 33 (1) does not apply if a court is considering, in proceedings for an offence specified in the Land Transport Act 1998, whether or not a person had complied with this rule.
- (3) A person is not in breach of this Bylaw if that person proves that the act or omission complained of –
  - (a) took place in compliance with the directions of an Authorised Officer, a traffic signal, or a traffic sign; or
  - (b) in the case of an act or omission done by an Authorised Officer, was necessary in the execution of the person's duty.
- (4) A person is not in breach of clauses 2.1 to 2.9, 2.13 (which relates to use of roads), clause 5.3 (minimum speed limits) or Part 6 (stopping and parking) of the Land Transport (Road User) Rule 2004, in relation to a vehicle, if that person proves that -
  - (a) the vehicle was, at the time of the act or omission complained of, actually engaged in a public work on a road; and
  - (b) the vehicle was being used on the road with due consideration for other road users; and
  - (c) the act or omission complained of was reasonably necessary for the purposes of that work; and
  - (d) he or she took all reasonable care to prevent the occurrence of any accident, mishap, collision, or damage, or any injury to or interference with any person, animal, or property arising because of the act or omission.

## FIRST SCHEDULE OF THE TRAFFIC AND SPEED LIMITS BYLAW 2018

### ONE WAY ROADS

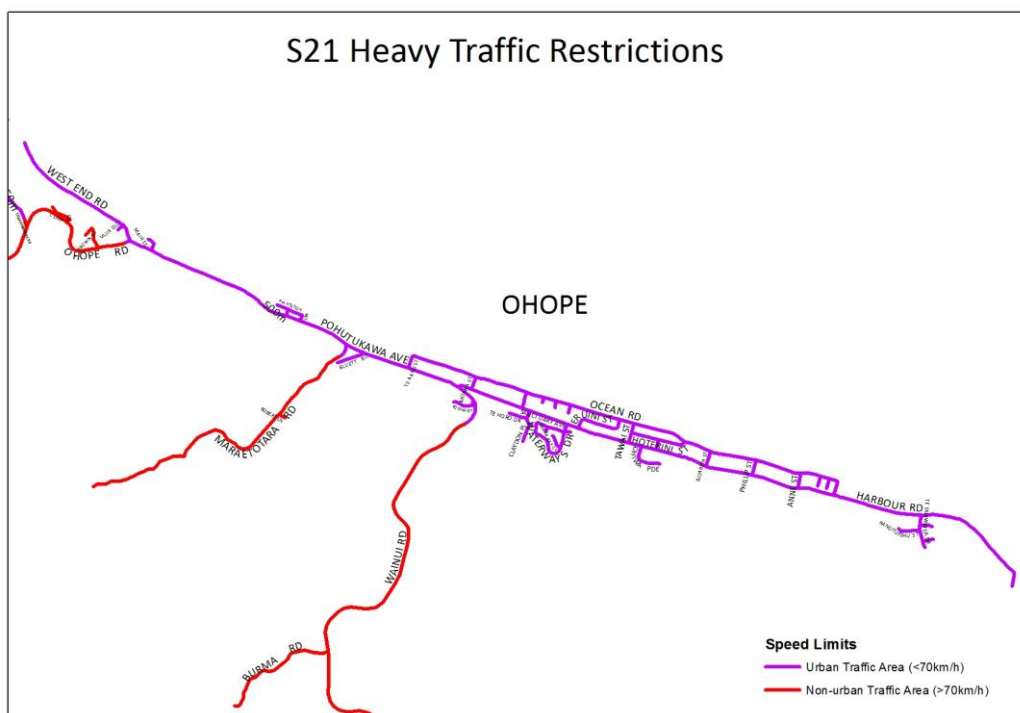
1. The following roads are designated as One-Way Roads within the Whakatāne District
  - (a) Quay Street

## SECOND SCHEDULE OF THE TRAFFIC AND SPEED LIMITS BYLAW 2018

### Conditions for Heavy Goods Vehicle Traffic Permits to Travel through the Urban Traffic Area within Ōhope

1. The circumstances under which a heavy goods vehicle permit may be issued include:
  - (a) Where the place of business of the owner of the Heavy Goods Vehicle is registered within the urban traffic area within Ōhope; or
  - (b) driving through the urban traffic area within Ōhope is necessary for the purpose of driving to the place of business of the owner of the Heavy Goods Vehicle; or
  - (c) the domicile of the driver or operator of the Heavy Motor Vehicle is located within the urban traffic area within Ōhope.
2. No heavy goods vehicle shall be driven through the Ōhope urban traffic area between 8.30 and 9.30am and/or between 2.30 and 3.30pm.
3. The Council can use discretion based on the economic benefits and circumstances of the activity when assessing whether or not to issue a permit that allows a heavy goods vehicle to travel through the urban traffic area within Ōhope.

### Map of Urban Traffic Area within Ōhope





**THIRD SCHEDULE OF TRAFFIC AND SPEED LIMITS BYLAW 2018**

**SCHEDULE OF SPEED LIMITS**

## FOURTH SCHEDULE OF THE TRAFFIC AND SPEED LIMITS BYLAW

### SCHEDULE OF TRAFFIC FINES

#### 1. PARKING OFFENCES

(1) The Fines for any parking offence involving parking on a road or other public place in breach of this bylaw are as follows:

(a) Parked on or within 6 m of an intersection	\$60.00
(b) Parked on or near a pedestrian crossing	\$60.00
(c) Parked on broken yellow lines	\$60.00
(d) Double parking	\$60.00
(e) Inconsiderate parking	\$60.00
(f) Parked on a clearway	\$60.00
(g) Parked on a bus only lane	\$60.00
(h) Any other parking offence	\$40.00

(2) The Fines for any parking offence involving parking on a road or other public place in breach of this bylaw, in excess of the period of time fixed pursuant to this bylaw, where the excess time are as follows:

(a) Not more than 30 min	\$12.00
(b) More than 30 min but not more than 1 hour	\$15.00
(c) More than 1 hour but not more than 2 hours	\$21.00
(d) More than 2 hours but not more than 4 hours	\$30.00
(e) More than 4 hours, but not more than 6 hours	\$42.00
(f) More than 6 hours	\$57.00

#### 2. OTHER OFFENCES

(1) The penalty for any other offence shall be as provided for within the Local Government Act 2002, the Land Transport Act 1998, the Land Transport (Offences and Penalties) Regulations 1999, The Land Transport (Road User) Rule 2004 or any amendments.

#### 3. TOWAGE FEES

(1) All expenses incurred by the Council in respect of the movement or proposed movement of any vehicle (whether or not the vehicle is in fact moved) or the restraining of any vehicle of this bylaw shall be a cost to the owner thereof and shall be payable as additional to any fine which might be imposed in respect of the offence giving rise to the movement or restraining as the case might be.

#### 4. SPEEDING

(1) Every person who commits an offence is liable on summary conviction, to a fine not exceeding \$500.00.