

## **HOROWHENUA DISTRICT COUNCIL**

# **LAND TRANSPORT BYLAW 2017**

**Made by the Governing Body of Horowhenua District Council**

**Resolution in Council**

**27<sup>th</sup> November 2017**

Pursuant to the Local Government Act 2002, the Local Government Act 1974 and the Land Transport Act 1998, the Governing Body of Horowhenua District Council makes the following bylaw.

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Schedules 1 to 14 are contained in a separate document. These include:

- Schedule 1 Urban Traffic Areas
- Schedule 2 Outside Urban Traffic Area
- Schedule 3 Roads that have a Speed Limit of 30 Km/hr
- Schedule 4 Roads that have a Speed Limit of 60 Km/hr
- Schedule 5 Roads that have a Speed Limit of 70 Km/hr
- Schedule 6 Roads that have a Speed Limit of 80 Km/hr
- Schedule 7 Variable Speed Limits
- Schedule 8 Roads that have a Speed Limit of 100 Km/hr
- Schedule 9 Holiday Speed Limits
- Schedule 10 One Way Roads
- Schedule 11 Heavy Vehicle Prohibited Roads
- Schedule 12 Traffic and Parking Restrictions
- Schedule 13 Height Restrictions
- Schedule 14 Engine Braking Restrictions

**1 Title**

This bylaw is the Land Transport Bylaw 2017.

**2 Commencement**

This Bylaw comes into force on 27<sup>th</sup> November 2017.

**3 Application**

- (1) This bylaw applies to all legal road reserve and parking places vested in or under the control of the Horowhenua District Council.
- (2) Upon written request from any person, Council may by resolution grant exemptions to this bylaw.
- (3) An exemption will be at the sole discretion of Council and may contain conditions regarding the exemption. Any non-compliance with any condition of the exemption will be deemed an offence under this Bylaw.
- (4) Council reserves the right on reasonable grounds to withdraw any approval for exemption by giving no less than 24 hours' notice in writing.

**Part 1**

**Preliminary Provisions**

**4 Purpose**

The purpose of this bylaw is to regulate parking and the use of all roads under the control of the Horowhenua District Council.

**5 Interpretation**

- (1) In this bylaw, unless the context requires otherwise,–

**authorised officer** means any person appointed or authorised by Council to act on its behalf and with its authority, and includes–

- (a) an enforcement officer as defined in section 5 of the Local Government Act 2002; and
- (b) a Parking Enforcement Officer; and
- (c) a constable as defined in section 4 of the Policing Act 2008; and
- (d) Council's Roading Services Manager; and
- (e) Council's Chief Executive Officer

**cycle–**

- (a) means a vehicle that has at least 2 wheels and that is designed primarily to be propelled by muscular energy of the rider; and
- (b) includes a power-assisted cycle

**boundary fence** means a fence, as defined in section 2 of the Fencing Act 1978, which separates a road from an adjoining property

**council** and **district council** means the Horowhenua District Council or any person delegated to act on its behalf

**cycle path –**

- (a) means part of the road that is physically separated from the roadway that is intended for the use of cyclists, but which may also be used by pedestrians; and
- (b) includes a cycle track formed under section 332 of the Local Government Act 1974

**dairy cattle** means any cow bred for the ability to produce dairy products

**deactivated** means to disconnect or switch-off the electrical current so no current passes through the fence wires

**district** means the Horowhenua District

**drove** means the foot movement of stock and “**driven**” and “**droving**” shall have equivalent meanings

**drover** means any person who is responsible for stock on a road

**encroachment area** means the area of a rural road verge adjacent to a property enclosed for grazing purposes by a temporary or semi-permanent fence

**encroachment fence** means a temporary or semi-permanent fence erected to enclose an encroachment area

**farm** means—

- (c) any parcel or parcels of land occupied and operated as a single farming unit, including a small farm run as a hobby; or
- (d) a racecourse and any stables, regardless of ownership, that are located on the same road as a racecourse

**fence encroachment permit** means a permit granted pursuant to clause 31

**footpath** means a path or way principally designed for, and used by, pedestrians; and includes a footbridge

**gateway** means any opening in a boundary fence which allows entry to or exit from a road

**goods service loading zone** means any road, public place, or other area (or part thereof) authorised as a place where a goods vehicle may park for a limited time as indicated

**goods vehicle** means a motor vehicle that is—

- (a) designed exclusively or principally for the carriage of goods; or
- (b) used for the collection or delivery of goods in the course of trade

**hours of darkness** means—

- (a) a period of time between half an hour after sunset on one day and half an hour before sunrise on the next day; or
- (b) any other time when there is not sufficient daylight to render clearly visible a person or vehicle at a distance of 100 metres

**loading zone** means any road, public place or other area, or part thereof, under the control of Council designated solely for the purpose of loading or unloading goods or passengers

**maximum authorised period** means the maximum period of time for which any vehicle is lawfully permitted to be in any parking place or metered space zone

**metered space** means a parking space within a metered space zone

**metered space zone** means a space or section of a road or public place, or other area under the control of Council, identified by painted lines for the accommodation of a vehicle and at which space or section a parking meter or ticket machine has been installed

**meter ticket** means a ticket issued by a ticket machine indicating the time for which a vehicle may be parked in a metered space zone

**mobility parking permit** means a card issued by CCS Disability Action Incorporated or similar organisation recognised by Council for which certain parking concessions are available in accordance with the permit conditions

**network utility operator** has the same meaning as in section 166 of the Resource Management Act 1991

**NZTA** means the New Zealand Transport Agency

**owner** means,—

- (a) in relation to stock, the person who—
  - (i) owns the stock; or
  - (ii) is responsible for the care and custody of the stock, whether the stock is at large or in confinement; and includes
  - (iii) is driving stock on a road
- (b) in relation to property, means the person who—
  - (i) owns the property; or
  - (ii) is the legal occupier of the property

**parking** means,—

- (a) in relation to a portion of a road or other area under the control of Council where parking is for the time being governed by the location of parking meters under the control of Council, the stopping or standing of a vehicle on that portion of road for any period exceeding 5 minutes:
- (b) in relation to any other portion of a road or other area under the control of Council, the stopping or standing of a vehicle (other than a vehicle picking up or setting down passengers in a loading zone or reserved parking area, and entitled to do so) on that portion of the road or other area under the control of Council

**parking fee** means the fee payable for parking in a metered space and prescribed by resolution of Council

**parking meter** means a mechanical or electronic appliance, whether single or multi-bay, designed for the purpose of automatically measuring and indicating the time within which a vehicle is, or may be parked at a metered space and includes the standard to which the meter is affixed

**parking enforcement officer** means a person appointed to hold the office of Parking Warden pursuant to section 128D of the Land Transport Act 1998

**parking place** means a place, including a building, where vehicles or any class of vehicles may park

**parking space** means a space or section of a road or public place or other area under the control of the Council, for the accommodation of a vehicle

**pay and display machine** means a mechanical or electronic appliance designed for the purpose of issuing meter tickets, and includes the standard to which the ticket meter is affixed and any sign on, or attached to, the meter or standard.

**pay and display zone** means any area declared from time-to-time by resolution of Council to be a Pay and Display Zone

**poultry** caged or otherwise, means geese, ducks, pigeons, turkeys and domestic fowls of all description

**public place** means,—

- (a) every thoroughfare (other than a road as defined in this Bylaw) of a public nature or open to or used by the public as of right; and
- (b) every park, reserve, beach, riverbed, place of public resort or place to which the public has access within the district

**road** has the same meaning as in section 315 of the Local Government Act 1974 but does not include an unformed road or state highway

**roadway** means that portion of the road used or reasonably usable for the time being for vehicular traffic in general

**road verge** any margin of a road adjacent to, but not forming part of, the roadway or the footpath

**rural road** means a road or geographical area that is not an urban traffic area

**semi-permanent fence** means a fence erected in accordance with clause 28

**speed limit** has the same meaning as in part 2 of the Land Transport Rule: Setting of Speed Limits 2017

**state highway** has the same meaning as in section 5 of the Land Transport Management Act 2003

**stock** includes livestock and means any hoofed animal not in a wild state

**stock crossing** means an crossing place used for the purpose of moving stock across any roadway and includes all affected parts of any road, road verge and associated drainage system

**stock race** means an approved area of a road verge fenced and used specifically for the purpose of shifting and moving stock

**stock underpass** means an approved underpass designed and constructed in compliance with the requirements of Council's policies

**temporary fence** means a fence erected in accordance with clause 26

**unformed road** means any legal road reserve in the district in which a roadway has never been formed or was once formed and has subsequently become unformed

**urban traffic area** has the same meaning as in part 2 of the Land Transport Rule: Setting of Speed Limits 2017

**vehicle** has the same meaning as in section 2 of the Land Transport Act 1998

- (2) Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be inserted, amended or revoked without formality.
- (3) The Interpretation Act 1999 applies to this bylaw.

## Part 2

### Stock Control and Movement

#### 6 Purpose

- (1) The purpose of this part is to make provision for the control and movement of stock along and across roads within the district, and set out the conditions when it is, or is not permitted, to:
  - (a) Provide for the orderly droving of stock with particular regard to traffic safety; and
  - (b) Protect the structure and surface of maintained roads to minimise damage to roads; and
  - (c) Minimise inconvenience, nuisance and potential danger to all road users.
- (2) This part does not make provisions for the driving of stock along any state highway. Any person wishing to drive stock along a state highway must first notify and get the permission of the NZTA.

#### 7 Animals Wandering

- (1) Every person being the owner of any stock shall keep and prevent the same from wandering or being at large without proper control on any public place or road.
- (2) In the event of stock wandering or being at large without proper control on any public place or road, the owner of such stock is responsible for all fees and costs incurred by Council, and its agents, to secure the same, where responsibility can be proved.

#### 8 Droving of Stock

- (1) Stock may be driven along any rural road within the district, provided—
  - (a) any drover leading or droving the stock has the necessary skills and experience to lead or drove stock on a road; and



- (b) stock are not driven during the hours of darkness, except for the purpose of returning any stock, which have escaped, to the nearest secure area, or for an emergency, or complying with the conditions of a permit issued by Horowhenua District Council; and
- (c) in the case of an emergency or escape, the drover must take all practicable steps to ensure the health and safety of other road users, including but not limited to, warning other road users through the use of signals and beacons
- (d) stock are driven so as to cause the least possible disruption and danger to other road users; and
- (e) the drover allows any vehicle to proceed along the road and takes all reasonable steps to make way for, or to allow, such vehicle to pass; and
- (f) stock are controlled at all times in a manner that is suitable for the conditions of the road being used; and
- (g) stock being driven enter and exit the road at points where the danger to other road users, and damage to the road, is avoided; and
- (h) all gateways are closed before stock pass; and
- (i) stock are being controlled by sufficient drovers to ensure continuous progress is made towards the destination; and
- (j) stock, drovers, other personnel and vehicles involved with the droving are clearly visible to other road users from a distance of not less than 170 metres; or
- (k) Where it is not possible for the stock being driven to be clearly visible to other road users for a distance of not less than 170 metres then pilot vehicles with flashing lights are required to be employed no less than 170 metres in front and behind of the stock; and
- (l) any stock injured, killed or which dies while being driven must be removed from the roadway immediately and must be removed from the road verge as soon as possible but no later than midnight that same day; and

## **9 Damage Caused Through Droving**

Any person causing damage to the road, road verge, Council assets, Council property, or private property in the course of moving any stock shall be liable for costs incurred by Council, or a private property owner, to rectify the damage.

## **10 Power to Restrict Droving**

The Council may from time to time in extraordinary circumstances, and by Special Order prohibit or restrict the use of any road for the droving of stock. Any such prohibition or restriction may from time to time in like manner be altered or revoked. Council will give public notice of any restriction put in place on the use of roads for stock droving and advise residents in the vicinity of the road in question, where practicable.

## **11 Stock Routes**

- (1) The Council may from time to time by resolution of Council declare specified roads to be "stock routes" for the purposes of droving stock. Any such declaration may from time to time in like manner be altered or revoked.
- (2) Any roads designated by Council as stock routes will have suitable signage erected.

## **12 Public Liability**

- (1) The owner of stock shall be responsible for public safety or any damage to public or private property, which may arise from any stock droving activity. To protect their liability for damage to third parties, the owner must arrange and keep in force a suitable public liability insurance policy.

## **13 Fees**

The Council may from time to time by ordinary resolution fix the fees payable for infringements under this part of the bylaw, and for the impoundment of stock.

## 14 Stock Crossings

- (1) All stock crossings are subject to the following general conditions–
- (a) the exit and entry points of any stock crossings are to be installed directly opposite one another in the road and boundary fences are to be fitted with gates; and
  - (b) crossings shall be sited with no less than 170 metres clear visibility in both directions and no closer than 60 metres to an intersection, if no practical stock crossing location can be found satisfying the above condition then appropriate signage shall be positioned to ensure that road users are aware of the stock crossing; and
  - (c) crossing of stock from one side of the road to the other is to be completed by driving the herd in a controlled manner and with a minimum of delay and inconvenience to motorists; and
  - (d) the stock owner shall be liable for any costs incurred by Council due to the crossing of stock. These costs may include costs incurred in respect of–
    - (i) the maintenance of the maintained road due to damage caused by the moving of stock, as is assessed by an authorised officer of Council; and
    - (ii) the installation of warning signs at the crossing point; and
    - (iii) the removal by Council, its agents or contractors of stock excrement from a road at the point where the stock crosses.

## 15 Additional Provisions for Regular Stock Movements Across Roadways

- (1) For the purposes of this clause, “**regular stock crossings**” means the use of a stock crossing once a week or more. In addition to the conditions provided above in clause 14(1) where an owner undertakes regular stock crossings they shall be subject to the following conditions–
- (a) the owner is required to obtain from Council, and agree to the terms of, a Stock Crossing Agreement; and
  - (b) internal farm race and farm management practices are to be arranged so that only one stock crossing is required per farm, where possible, and there is no requirement to drive stock along the road; and
  - (c) at all crossing points and gateways, a well-drained hard fill surface must be constructed and maintained at the owner’s expense, and to Council’s satisfaction, from the edge of the roadway to the road boundary, for the full width of the crossing points and gateways and shall be shaped to ensure effluent and surface water drain away from the roadway; and
  - (d) temporary warning signs complying with NZTA’s Traffic Control Devices Manual (“**TCD Manual**”) and any other requirements imposed by statute or regulation are to be installed, at the owner’s expense, on either side of the crossing point and used while stock are crossing the road. Permanent warning signs complying with the TCD Manual and any other requirements imposed by statute or regulation will be erected not less than 170 metres on either side of the crossing point, at Council’s expense, recognising that this is a road safety measure; and
  - (e) Amber flashing lights of a type and size approved by Council must be–
    - (i) located at or about the road crossing point so as to be visible to other road users approaching from either direction; and
    - (ii) operated while the crossing is taking place; and
  - (f) all reasonable and practicable steps, such as, by washing, scraping, shovelling, sweeping, use of cow mat or any other means of cleaning are to be taken to remove mud and faecal matter from the roadway as soon as practicable at the end of use.<sup>1</sup>
- (2) Current crossing points are deemed to have existing use rights, however, the requirements of clauses 15(1) (c) to (f) applies. Failure to comply will be deemed to be a breach of this Bylaw.

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<sup>1</sup> Note: washing down may require resource consent.

## **16 Concrete Stock Crossings**

- (1) Without limiting the requirements of clauses 15(1) and 15(2), Council may require the installation of a concrete slab across the roadway at crossing points, to the Council's specification and approval, to prevent damage, or because of damage to the road, road verge or nearby watercourse.
- (2) The owner utilising the crossing point shall be required to enter into a Stock Crossing Construction Agreement prior to the installation of a concrete slab at the crossing point.
- (3) The cost of the installation of the concrete slab itself is to be borne by the owner utilising the crossing point. The cost of other works associated with installation of the concrete slab shall be borne by Council, unless otherwise agreed.

## **17 Stock Underpasses**

- (1) Where the number of vehicles exceeds 500 per day consideration should be given to the construction of a stock underpass.
- (2) Where an owner desires to install a stock underpass, in lieu of crossing the road, the owner is required to obtain from Council, and agree to the terms of, a site specific Stock Underpass Construction Agreement and a Stock Underpass Use Agreement.
- (3) All stock underpasses shall be constructed to conform to the design, standards and specifications specified in the Stock Underpass Construction Agreement.
- (4) The owner will be liable for all costs in relation to the construction of the stock underpass except those detailed in clause 17(5).
- (5) Council will, supply the materials for, and meet the cost of –
  - (a) reinstating the top 300mm of the road pavement; and/or
  - (b) reinstating the road surfacing; and/or
  - (c) road signage; andwill advertise the road closure at no cost to the owner.
- (6) Upon completion, ownership of the stock underpass will be vested in Council and the stock underpass added to Council's asset register.

## **18 Stock Race**

No person shall use any area of a road verge as a stock race without first obtaining written approval from Council. Approval, if granted, is subject to such conditions as may be prescribed by Council on a case by case basis.

### **Part 3**

#### **Rural Roadside Grazing and Rural Fence Encroachments**

## **19 Purpose**

The purpose of this part is to make provision for the safe grazing of rural road verges, and set out the conditions when it is, or is not permitted, to:

- (a) graze the road verge; and
- (b) erect fencing on the road verge
- (c) the grazing and/or tethering of stock on the roadside in urban areas is not permitted

## **20 Grazing Behind an Encroachment Fence**

In rural areas, stock, excluding poultry, bulls and pigs, may be grazed on a road verge adjoining land owned or occupied by the owner of the stock, or on a road verge adjoining land of another person with the prior consent of that person, if the stock is confined by an approved encroachment fence in accordance with the provisions laid out in this Part.

## **21 Tethered Stock**

A person is allowed to tether stock, excluding poultry, bulls and pigs, on the grassed area directly adjacent to their property provided they do not tether any stock in a position where the stock are able to stray within 3 metres of the roadway.

## **22 Hours of Grazing**

No person shall graze or tether any stock on any road verge during the hours of darkness.

## **23 Risk**

An owner of stock who grazes the same on the road verge in accordance with this Bylaw does so at the owner's risk in all respects.

## **24 Damage**

Any person causing damage to the maintained road, road verge, or Council property in the course of grazing any livestock shall be liable for costs incurred by Council to rectify the damage.

## **25 Acceptance of Fence Encroachment on Rural Roads**

- (1) The acceptance (or otherwise) of all fence encroachments is at the full and sole discretion of Council. In the exercise of its discretion, Council will take into account whether the fence encroachment will—
  - (a) interfere with access to another property; and/or
  - (b) affect road safety or the public's right to use the road; and/or
  - (c) assist in the efficient maintenance of the road verge; and/or
  - (d) have consequences to any services within the road or to any service provider; and/or
  - (e) permit the ongoing maintenance of the rural road network.

## **26 Temporary Fencing up to 7 Days**

- (1) In rural areas, lightweight temporary electric fencing with 1 to 3 strand tape will be permitted up to and no closer than 2 metres from the roadway, along the road frontage immediately adjoining the owner's property, without Council permission for a period of up to 7 days before being removed.
- (2) Posts must be lightweight "pig's tail", "multi-wire treadin" type or similar, so as not to pose a danger to vehicles. Wooden posts or waratahs (steel fence standards) are not permitted under any circumstances. A temporary fence must be splayed at 45-degrees from any gateways along the road verge being grazed.
- (3) Only stock, excluding poultry, bulls and pigs, shall be grazed and can only be kept in the temporarily fenced area during daylight hours.
- (4) All temporary electric fences must be deactivated when not in use. Electric fences may be mains or battery powered but must not be greater than 12 volts.
- (5) Council may, at its sole discretion, specifically exclude an owner from erecting an encroachment fence and grazing on road reserve if they have a history of illegal or inappropriate grazing of road reserve.

## **27 Removal and Relocation of Temporary Fences**

- (1) Council may direct an owner to remove or relocate any temporary fence on a road verge by giving not less than 24 hours' notice whether orally or in writing.

- (2) When the owner fails to remove or relocate a temporary fence within the timeframe specified by Council, Council may remove or relocate the temporary fence at the owner's expense and any stock within the encroachment area will be treated as wandering stock in terms of Council's bylaws.
- (3) Any temporary fence on road reserve must be removed when notice is given by Council of its intention to mow the verge of the encroachment area. Council is deemed to have given notice to an owner upon publication of a notice on Council's website a minimum of 10 working days prior to the intended date of the mowing. It is the responsibility of the owner to monitor Council's website for the publication of such notices.

## **28 Semi-permanent Fencing**

- (1) The owner of a property with frontage to a rural road may apply to the Council for a permit to erect a semi-permanent fence and occupy part of the rural road verge for grazing purposes. If approval is granted, a fence encroachment permit will be issued by Council.
- (2) An application for a fence encroachment permit will only be considered if the owner meets the following criteria,—
  - (a) the owner's property adjoining the proposed encroachment area is zoned 'rural' in Council's District Plan; and
  - (b) the owner has a boundary fence erected on the boundary of their property immediately adjoining the encroachment area and this meets the minimum standards for rural fences pursuant to the Fencing Act 1978; and
  - (c) the owner has submitted a fully completed application form and paid the associated fee as set by Council;
  - (d) the owner has provided details of any stay post locations on a fencing plan attached to the owner's application for a permit; and
  - (e) the owner has supplied evidence of Public Liability Insurance indemnifying the Council for at least \$2,000,000.00; and
  - (f) the owner has no history of illegal or inappropriate grazing of unformed road or road verge.
- (3) A fence encroachment permit will be issued in accordance clause 34 along-with the following requirements,—
  - (a) the permit may be for a definite or indefinite period; and
  - (b) the permit cannot be transferred to another person; and
  - (c) Council may charge an annual fee at its discretion; and
  - (d) fences must be set-back a minimum of 2 metres from the edge of the roadway. Additional set-backs may be required on bends, near bridges, drains or as may be necessary in order to preserve sight lines and clearances for road maintenance machinery; and
  - (e) the final position of any encroachment fence, including post location, permitted under this bylaw will be at the sole discretion of Council; and
  - (f) the encroachment area may be used only for the grazing of stock that does not pose a safety hazard to road users, poultry, pigs and bulls are specifically excluded; and
  - (g) the owner may not use any part of the road for cropping, horticulture or the planting of trees, shrubs or hedges; and
  - (h) Council or the owner may cancel a permit at any time by giving written notice to the other party. The owner will then, at its sole cost, remove the encroachment fence and all stock from the encroachment area and, if requested by Council, restore the road verge in the encroachment area to its original condition; and
  - (i) the owner will pay all costs associated with any restoration needed of the road verge, including surveying costs if the Council considers it necessary in order to accurately re-establish the boundary position.

- (4) Where a fence encroachment permit is granted, semi-permanent fences must be constructed in accordance with the following specifications and requirements,–
- (a) fences must be 2 wire electric; and
  - (b) fences must not exceed 1.5 metres in height; and
  - (c) fences must be suitable for the type of stock to be grazed in the encroachment area; and
  - (d) all posts used must be of treated pine, spaced at least 3 per 20 metres. Under no circumstances are waratahs, metal, concrete or hardwood posts to be used; and
  - (e) where round-posts are used, the diameter is not to exceed 125 millimetres; and/or
  - (f) where half-round posts are used, the post is not to exceed 200 millimetres when measured on the cut diameter; and/or
  - (g) where quarter-round posts are used, the post is not to exceed 115 millimetres when measured on the cut radius; and
  - (h) stay posts, where permitted, shall be of timber with a maximum diameter of 125 millimetres. Stay posts may be considered when the location of the stay post does not constitute a hazard to road users. Council has the sole discretion as to whether a stay post constitutes a hazard to road users. Where possible, stay posts will be located on the boundary of the owner's property. Stay posts located within road corridor must be painted white; and
  - (i) no battens may be used; and
  - (j) no gateway may be constructed in the encroachment fence with all access to the encroachment area being directly from the owner's property; and
  - (k) deer fencing and barbed wire is not permitted as an encroachment fence under any circumstances.
- (5) No semi-permanent fence may be erected on rural road verge without the adjoining land owner having first obtained a permit in accordance with this clause.

### **29 Fence Encroachments on Unformed Road**

- (1) An owner of adjoining property may occupy and fence an adjoining unformed road under the same conditions as those for temporary fencing, and on the following conditions,–
- (a) the owner must have erected, and properly maintained, a permanent fence on the legal boundary of their adjoining property. The boundary fence must meet the required standard for rural fences pursuant to the Fencing Act 1978; and
  - (b) where an unformed rural road has adjacent adjoining properties, the adjoining owners may encroach only as far as the centre-line of the unformed road without the consent of Council or the adjacent land owner; and
  - (c) the owner does not prohibit the public from accessing the unformed road, or suggest to the public that they do not have the right to pass across the unformed road; and
  - (d) No stock that may pose a safety hazard to pedestrians or other users of the unformed road are kept in the encroachment area.

### **30 Removal and Relocation of Unlicensed or Unapproved Permanent Fences**

- (1) Any encroaching fence within legal road reserve that has not been licensed, permitted or approved by Council must be removed by the owner and the encroachment area restored to its original condition within one calendar month of being requested or directed to do so by the Council.
- (2) If the owner fails to remove or relocate an encroaching fence that has not been licenced, permitted or approved by Council within one month of Council directing or requesting the fence be removed, Council may remove the encroaching fence at the owner's expense and any stock within the encroachment area may be treated as wandering stock in terms of Council's bylaws.

- (3) Any owner who erects an encroaching fence without a permit after previously being requested or directed to remove an unlicensed or unapproved encroaching fence, will be considered a recidivist encroacher.
- (4) A recidivist encroacher will not be entitled to receive any prior direction or request from Council to remove an unlicensed or unapproved encroachment fence and will be liable for any costs incurred by Council for the removal of any encroaching fence and the restoration of the road verge to its original state. Any stock within the encroachment area may then be treated as wandering stock in accordance with Council's bylaws.

### **31 Existing Complying Encroachment Fences**

- (1) Where the Council has, prior to the commencement of this bylaw, granted permission for an encroachment fence on a rural road verge or on an unformed road, and the fence complies with this bylaw, the Council will honour the agreement in so far as the law requires.
- (2) Where an owner has erected an encroachment fence on a rural road verge or on an unformed road without the express permission of Council but the encroachment fence otherwise complies with this bylaw, Council may, at its discretion, grant the owner a permit for the encroachment fence.

### **32 Removal of Existing, Previously Approved, but Non-Complying Encroaching Fences**

- (1) Where the Council has, prior to the commencement of this bylaw, granted permission for an encroachment fence on a rural road verge or on an unformed road, but the encroaching fence is non-complying with the requirements of this bylaw, the fence in question must be removed by the owner within 3 months of being requested or directed to do so by Council. The owner may then erect a complying semi-permanent fence and be issued with a new permit in accordance with the terms of this policy with no application fee required.
- (2) If an owner fails to remove a non-complying encroaching fence as directed by Council, within 3 months, Council may remove the fence at the owner's expense and any stock within the encroachment area may be treated as wandering stock in terms of Council's bylaws.

### **33 End of Fence Encroachment Agreement**

Once any existing agreement has expired, or has been rescinded, the owner must restore the encroachment area to its original condition.

### **34 Permits and Permit Fees**

- (1) An adjoining land owner may apply for a permit to occupy and fence a rural road verge or an unformed road so as to officially recognise their use of the encroachment area whether or not they intend to erect a semi-permanent fence.
- (2) Where an owner applies for a permit where a semi-permanent fence will not be erected, the permit will be on such terms and conditions as Council deems appropriate.
- (3) Unless otherwise provided, the owner is required to pay an application fee at the time of lodging their application for a permit.
- (4) The application fee and an annual charge (if any) will be subject to yearly review by Council and published in the Horowhenua District Council Fees and Charges Schedule.

### **35 Management of Rural Road Fence Encroachment Permits**

Rural road fence encroachment permits will be managed by Council's Roading Team. In all circumstances, Council's Roading Services Manager will have the final discretion to refuse to grant a permit or to terminate a permit.

### **36 Insurance and Default**

The Council is not to be held responsible in any way for claims or damage which may be made on account of an encroachment fence, and it is a condition of the issuing of any permit that the property owner arranges and keeps in force Public Liability Insurance to protect their liability for damages caused to third parties for which they may be liable.

## Part 4 Speed Limit Areas

### 37 Purpose

This purpose of this part is to set speed limits by resolution on all roads.

### 38 Speed Limit Areas

- (1) The roads or areas described in Schedules 1 to 8, or as shown on a map referenced in the Schedules, are declared to have the speed limits specified in the schedules and maps, which are part of this bylaw.
- (2) Council may, by resolution publicly notified, alter or change Schedules 1 to 8 of this bylaw. All resolutions shall be recorded in Council's register of speed limits. Where a speed limit is set through this bylaw the areas will be marked with appropriate signage.

## Part 5 Traffic and Parking Restrictions

### 39 Purpose

The purpose of this part is to regulate parking and the control of vehicular or other traffic in respect of roads, public places and parking areas under the control of Council.

### 40 Amendments

- (1) Council may by resolution and following use of the Special Consultative Procedure, where necessary, as required by the Local Government Act 2002, impose or amend any prohibitions, restrictions, controls or directions in relation to the use of any area of road controlled by the Council.
- (2) Every resolution made by the Council under this bylaw shall be publicly notified at least 14 days before it takes effect by the insertion of the resolution in at least 1 newspaper circulating in the district.

### 41 One-Way Roads

- (1) Council may, from time to time, by resolution publicly notified,—
  - (a) restrict the driving of vehicles or riding of any horse or cycle along any road, cycle path or shared pathway to one specified direction only; or
  - (b) rescind, amend, or vary any such prohibition from time to time.
- (2) The roads listed in Schedule 9 of this Bylaw as “**one-way roads**” are hereby deemed to be resolved and notified under this clause.

### 42 Single Lane Bridges and Single Lane Sections of Road

Where any bridge or single lane section of road within the district is signposted in accordance with a version of the TCD Manual, the right of way for that bridge or section shall be as indicated by the signage erected at the bridge or section.

### 43 Heavy Motor Vehicles

- (1) Council may, from time to time, by resolution publicly notified,—
  - (a) prohibit any heavy traffic on any maintained or unmaintained road or roads within the district; or
  - (b) rescind, amend, or vary any such prohibition from time to time.
- (2) No person shall drive, or permit to be driven, any heavy motor vehicle except a bus, on or along those roads, or parts of roads listed in Schedule 10 of this Bylaw, except for the purpose of,—



- (a) picking up from, or delivering goods to, an address on those roads when alternative access is not available for this purpose; or
  - (b) loading or unloading goods or passengers at any property whose safe vehicular access is by way of the road or public place.
- (3) The prohibitions set out in this clause shall not apply to a network utility operator, or its authorised agent, or a contractor engaged in the provision of, or maintenance of, a road or part of a road specified in Schedule 10.
- (4) The roads listed in Schedule 10 as “Heavy Vehicle Prohibited Roads” are hereby deemed to be resolved and notified under this clause.

#### **44 Parking and Traffic Restrictions**

- (1) Council may, from time to time, by resolution publicly notified,—
- (a) prohibit the stopping, standing or parking of vehicles on any road, public carpark, reserve, or any other public place; or
  - (b) set aside portions of any maintained road as bus stops, bus stands, transport stations, taxi stands, carparks reserved for people with a medical or disability condition, cycle path, clear ways, no stopping areas and traffic lanes for buses, taxis or vehicles or others specified classes as recorded in Schedule 11; or
  - (c) fix a rental or charge to be paid for the use of any parking area and in like manner may vary the same.
- (2) A resolution in respect of any matter contained in clause 44(1) may be in respect of a specified class, type, weight or description of vehicle and may be expressed or limited to apply only on specified days, or between specified times or in respect of specified events or classes of events, or be limited to specified maximum periods of time.
- (3) Council shall mark such roads and/or erect such signs on any road, public car park, reserve, or other public places as necessary to give effect to any resolution made pursuant to this clause.
- (4) Council may from time to time by resolution rescind, amend, or vary any resolution made pursuant to this clause.
- (5) Schedule 11 sets out the parking restrictions that are hereby deemed to be imposed under this clause.
- (6) No person shall stop, stand or park a vehicle on any road, public car park, reserve or any other public place in contravention of a restriction imposed by Council and evidenced by appropriate signs and/or road marks. Notwithstanding the provisions of this subclause—
- (a) an authorised officer may, subject to such conditions as appropriate in the circumstances and payment of the prescribed fee, authorise the stopping, standing or parking of specified vehicles; and
  - (b) motor vehicles may, for the picking up or delivering goods to an address on those roads when alternative access is not available for this purpose, stop, stand, or park in heavy traffic parking restricted areas.
- (7) No person shall stop, stand or park any vehicle on any footpath, walkway, cycle path, shared pathway, median strip, raised traffic island, flowerbed or shrubbery laid out on any road or on a under the control of Council, except:
- (a) the driving of a vehicle over a footpath, walkway, cycle path, shared pathway, by means of a vehicle crossing constructed on the road for the purpose of gaining vehicular access to property adjacent to that road; or
  - (b) the riding of a cycle for the purpose of delivering newspapers, mail or printed material to letterboxes; or
  - (c) the riding of a mobility scooter or wheelchair; or

- (d) to emergency service vehicles, network utility operator's vehicles or approved New Zealand Post vehicles where they are in the course of their duty or with the approval of an authorised officer.
- (8) No person shall-
  - (a) place or leave any container, machinery, trailer, caravan, equipment, materials, or waste disposal bins within any road or public place, except with the permission of an authorised officer and in accordance with any conditions that may be required; or
  - (b) leave on a road within the district for a period exceeding 7 days, any vehicle which:
    - (i) has no effective motive power; or
    - (ii) is disabled or damaged or in such a state that it cannot safely be drivenif any such vehicle is not removed within the said period of 7 days, a Notice of Intention to Impound may be placed on the vehicle by an authorised officer. The vehicle may then be impounded after a period of 24 hours from the placing of the Notice.
- (9) If any vehicle or other item left on any road, or in any public place under the control of Council, is in the opinion of an authorised officer, an obstruction or traffic safety hazard, or it is considered that removal of the offending item is desirable in the interests of road safety or in the best interests of the public, the authorised officer may instigate action to impound or remove the vehicle or item immediately.
- (10) If any vehicle, or other item, removed or impounded pursuant to clause 44(8) or (9) is not claimed, and the expenses of removal and/or storage are not paid, by the owner or some other person having an interest therein, within 2 months after the date of removal or impounding, an authorised officer may proceed to dispose of such vehicle or item pursuant to the provisions of the Local Government Act 1974.
- (11) No person shall park a vehicle or object on any road or public place in the district for the purposes of sale during the hours of darkness.
- (12) Any of the above prohibitions, limitations, and restrictions may be prescribed so as not to apply on specified days or between specified hours.

#### **45 Loading Zone and Goods Service Loading Zone**

- (1) Council may from time to time by resolution and subject to the erection of any signs required by the Land Transport Act 1998, or any rules or regulations made thereunder—
  - (a) determine that any part of a road which shall be defined in such resolution shall be a loading zone or goods service loading zone for the purposes of this part; and
  - (b) prohibit, limit, or restrict the stopping, standing, or parking of vehicles other than those required for the loading or unloading of goods or passengers in any loading zone; and
  - (c) prohibit the parking of any vehicles in any loading zone in excess of a period fixed by such resolution.
- (2) No vehicle, other than a goods service vehicle shall stand or park, whether attended or unattended in any goods service loading zone.
- (3) No person or driver in charge of any vehicle shall stop, stand, or park such vehicle whether attended or unattended in any loading zone except in conformity with the terms of the loading zone or goods service loading zone.

#### **46 Metered Zones, Parking Meters and Pay and Display Machines, Time Restrictions**

- (1) Council may, by resolution publicly notified, following use of the special consultative procedure—
  - (a) declare any road or part of a road to be a metered zone; or
  - (b) declare any piece of land owned or occupied by the Council and not being a road or part of a road to be a metered zone, time restricted area, pay and display area; or

- (c) declare the time allowed for parking in such metered zone beyond which it shall be unlawful to remain parked; or
  - (d) fix the fees payable for the parking of vehicles within the metered zone.
- (2) Any such resolution may be amended or rescinded by a further resolution of the Council.
  - (3) In accordance with the provisions of any such resolution Council shall establish and mark out metered spaces in all metered zones.
  - (4) Parking meters or pay and display machines shall be located within the metered zone that they are to control. Any pay and display machine shall issue a slip on insertion of the prescribed fee in accordance with the instructions on the machine.
  - (5) White lines painted on the road shall indicate the extremities or metered spaces. Signs shall indicate the extremities of pay and display zones.

#### **47 Method of Parking**

- (1) No driver or person in charge of a vehicle shall park a vehicle on or over any marking indicating the limits of the parking space or in such a position that the vehicle is not entirely within the markings which indicate the limits of the parking space except that where a vehicle has a trailer attached the driver, or person in charge of the vehicle, may park the vehicle and trailer in two adjacent parking spaces.
- (2) No driver or person in charge of a vehicle shall park it in a parking space which is already occupied by another vehicle except that more than one motor cycle may occupy a single parking space and, if a metered park, only one parking fee for any authorised period shall be required. Nothing in this clause shall make it lawful for a motor cycle to remain parked in a parking space while the indicator of a parking meter shows that the authorised period has expired.
- (3) If the parking space is parallel to the kerb or footpath, the driver or person in charge of the vehicle shall park the vehicle so that it is facing the general direction of the movement of the traffic on the same side of the street.

#### **48 Payment of Fees in Metered Areas**

- (1) A vehicle shall be deemed to be "parked" only when it has been stopped or standing in the parking space for a period exceeding 5 minutes.
- (2) When a vehicle is parked in a metered area the driver or person in charge of the vehicle shall immediately pay the prescribed fee for the space so that the meter timer is activated.
- (3) The driver or person in charge of a vehicle parked in a metered area shall not permit that vehicle to remain parked while the parking meter indicates that the authorised period has expired.
- (4) Subject to clause 48(3), it shall be lawful for the driver or person in charge of a vehicle during or after the expiration of an authorised period of parking to pay the prescribed fee in the parking meter and activate the parking meter for a further period so long as the extended period doesn't surpass the maximum authorised period.
- (5) In a metered area where a maximum authorised period has been declared by resolution of Council and is indicated by appropriate notices on each parking meter, it shall be an offence for the driver or person in charge of a vehicle to allow that vehicle to occupy a parking space in that area for any time in excess of the maximum authorised period.

#### **49 Parking in Multiple Parking Meter Area**

- (1) In respect of multiple parking metered areas—
  - (a) No driver or person in charge of a vehicle shall park a vehicle in a multiple parking meter area without—
    - (i) complying with the directions and requirements indicated by the multiple parking meter and notices installed at the area; and
    - (ii) paying the prescribed fee to cover the period of parking;

- (b) The driver or person in charge of a vehicle shall park the vehicle so that it is contained wholly within a parking space where such spaces are marked;
- (c) Where a ticket is issued from a multiple parking meter the driver or person in charge of the vehicle shall place that ticket on the inside of the vehicle's windscreen, so that the information contained on the ticket is visible for inspection from outside the vehicle;
- (d) A valid parking ticket must be displayed;
- (e) The driver or person in charge of a vehicle shall not permit the vehicle to remain parked in a multiple parking meter area unless a ticket currently authorising the vehicle to be parked in the area is placed on the inside of the vehicle's windscreen in accordance with clause 49(1)(c);
- (f) No person shall park a vehicle in any aisle, egress or ingress lane of a multiple parking meter area.

#### **50 Temporary Discontinuance of a Parking Space**

Any parking space or spaces may be temporarily discontinued as a parking space or spaces by Council by placing a sign sufficiently indicating "No Stopping" at the parking space or spaces, and it shall be unlawful for any person to stop or park a vehicle at the parking space or spaces affected while any sign is in place.

#### **51 Misuse and Damage of Parking Spaces and Meters**

- (1) No person shall—
  - (a) Stop or park a motor cycle or cycle on or against a parking meter; or
  - (b) Stop or park a cycle on a parking space; or
  - (c) Stop or park a motorcycle or cycle at right angles to the kerb between parking spaces; or
  - (d) Operate a parking meter by a means other than as prescribed by this bylaw; or
  - (e) Insert anything in a parking meter other than the prescribed fee; or
  - (f) Misuse a parking meter; or
  - (g) Interfere or tamper with the working or operation of a parking meter; or
  - (h) Without due authority from the Council affix anything on, or paint, or write upon a parking meter; or
  - (i) Wilfully damage a parking meter; or
  - (j) Attempt to do any of the above acts.

#### **52 Operation Mobility Parking Permit Holders**

Council shall by markings or signs placed in a conspicuous position on a road or other area controlled by it indicate where the stopping or parking of a vehicle displaying an operation mobility parking permit issued to a person may be parked within the conditions of use and entitlement of the permit.

#### **53 Request to Move Vehicle**

The owner or person in charge of any vehicle, parked on any maintained road or public place, whether attended or unattended, shall upon request of any Parking Enforcement Officer, fire warden, police officer or other authorised officer, move such vehicles as directed for the purpose of facilitating traffic movement or public works.

**54 Temporary Restrictions on the use of Roads**

On a road under the jurisdiction of Council, where an authorised officer considers that there is, or is likely to arise at any place, the risk of a danger to the public or to road workers or of damage to the road, then Council may temporarily restrict the use of, or speed of, or class of vehicles which may use any part of that road. Any such restriction shall be defined by the display of temporary warning signs in conformity with the Land Transport Rule: Traffic Control Devices 2004 (and subsequent amendments) and the New Zealand Transport Agency's Code of Practice for Temporary Traffic Management ("CoPTTM").

**55 Road Works**

Without limiting the Land Transport Act 1998, any vehicle being used for the purpose of maintenance or construction of roading, or of any other utility, or otherwise, may be driven or parked contrary to any restriction in force under this part, only if a Corridor Access Request (CAR) and a Traffic Management Plan has been approved by Council.

**56 Damage to Signs**

No person shall interfere with, damage or remove any traffic control sign.

**57 Selling of Goods and Services at Intersections**

No person shall wash or clean the windows of any vehicles for payment or donation, solicit any subscription, collection or donation at any road intersection or within 100 metres of the intersection on any of its approaches, or use the intersection for the purposes of selling or offering any goods or services of any kind without the prior written permission of an authorised officer.

**58 Temporary Parking Areas**

In all cases where parking places for vehicles are not provided for under this Bylaw, any police officer, or Council's Chief Executive Officer, shall have power in cases of necessity or emergency, to appoint, provide, reserve and mark out any part of a street within the district as a temporary parking area to be used only in accordance with the instructions of such police officer, or the Chief Executive Officer and no person shall use such temporary parking area except in accordance with such instructions.

**59 Taxicabs**

- (1) Council may, by resolution publicly notified, establish public stands for the operation of taxicabs. No licensed taxicab shall operate on a regular basis other than from a public stand established for that purpose by resolution of Council.
- (2) Schedule 11 lists the public stands for the operation of taxicabs that are hereby deemed to be authorised under this clause.

**60 Height Restrictions**

- (1) Council may, by resolution publicly notified, establish height restrictions for certain sections of road, where a height restriction is imposed vehicles with a total height greater than that listed are prohibited from travelling along the road or under the structure in question.
- (2) Any height restrictions imposed by Council are listed in Schedule 12.

**61 Engine Braking**

- (1) The use of engine brakes by heavy vehicles is an offence against this bylaw where signage is displayed in such areas of the district prohibiting use of the same or as the Council shall determine by resolution publically notified.
- (2) The areas within which the use of these engine-braking devices is prohibited are listed in Schedule 13.
- (3) Council shall mark such roads and/or erect such signs on any road, as necessary to give effect to any resolution made pursuant to this clause.

## **62 Exemptions**

- (1) The driver or person in charge of the following vehicles shall be exempt from the provisions of this part,—
- (a) an ambulance being used for an urgent medical emergency; or
  - (b) a vehicle used by a member of a fire brigade who is engaged at an outbreak of fire; or
  - (c) a vehicle used by a fire brigade for attendance at fires and at the time engaged at an outbreak of fire; or
  - (d) a vehicle conveying a disabled person to whom a current operation mobility concession card has been issued in respect of payment of the parking fee provided such vehicle is parked in a space authorised for that class of vehicle only; or
  - (e) a vehicle used by a doctor at the time attending a medical emergency; or
  - (f) a vehicle displaying a valid parking exemption permit issued by Council.

## **63 Offences**

- (1) Every person commits an offence against this part who—
- (a) fails to comply in all respects with any prohibition, restriction, direction or requirement indicated by the lines, markings, traffic signs and other signs or notices laid down, placed, made or erected on, or upon any road, public car park, reserve or other places controlled by Council pursuant to any of the provisions of this part or any resolution made under this part.
  - (b) Fails to comply with any condition, duty or obligation, imposed by this part or by any resolution made under this part.

## **64 Defence to Breach of Traffic Restrictions**

- (1) It shall be a defence to any person charged with a breach of this part if they prove that—
- (a) the act complained of was done in an emergency or in compliance with the directions of a police officer, fire brigade member, traffic control signal or traffic sign; or
  - (b) the vehicle was at the time, with reasonable necessity, engaged in a public work at the place where it was stopped; and
  - (c) the vehicle was being used with due consideration for other road users.

## **Part 6**

### **Vehicle Accessways**

## **65 Purpose**

- (1) The purpose of this part is to regulate and set the requirements for the construction of vehicle accessways and crossings within the district.

## **66 Requirement to Construct Vehicle Crossings**

Whenever access between a maintained road and any adjacent land requires vehicles to cross a footpath, kerb, channel, or any part of the road verge not formed as roadway the owner of the adjacent land is to provide a vehicle crossing in accordance with the provisions of this part.

## **67 Design and Construction Requirements**

- (1) Design and construction of any vehicle crossing shall comply with the Horowhenua District Plan, Standards New Zealand (“**SNZ**”) document ‘NZS 4044:2010 Land Development and Subdivision Engineering’ or any subsequent standard produced by SNZ in substitution thereof.

- (2) Council shall be authorised at all times to create, modify, and extend the vehicle crossing design and construction standards.
- (3) The construction of any vehicle crossing shall only be undertaken by a person or persons with suitable skill and experience, to the satisfaction of Council, and only once a Corridor Access Request and a Traffic Management Plan has been approved by Council.

#### **68 Requirements Before Commencement of Work**

Before any construction on a vehicle crossing commences, the owner of the land, or an authorised agent of the owner, must follow the Council's Corridor Access Request (CAR) process and supply Council with plans of the proposed work.

#### **69 Construction Controls**

- (1) No physical work can proceed until the Corridor Access Request has been processed, the required Traffic Management Plan approved, a Works Access Permit issued and the location and construction plans approved by the Council.
- (2) The party undertaking the work may be required to give 24 hours notification prior to certain aspects of the work, for the purpose of inspection. If required, the inspections will be detailed in the Works Access Permit. The inspection may require works to be uncovered or partly removed to properly show methods and materials used in the construction.

#### **70 Failure to Construct Crossing**

- (1) Where the owner of any land accesses the land, or permits access to the land, at any point other than by way of a crossing approved by Council then Council may require the owner to construct a crossing in accordance with the provisions of this bylaw.
- (2) In the event that the owner fails to construct a crossing within 3 months of being so directed by Council, Council may construct the crossing and recover the actual and reasonable costs from the owner.

#### **71 Maintenance of Vehicle Accessways and Crossings**

- (1) Where Council undertakes any construction or reconstruction work, or replaces or installs any kerb and channel, pipeline, culvert, footpath or any other infrastructure which affects an existing complying vehicle crossing, Council shall reinstate the crossing at Council's expense to the level of service that existed before Council carried out the work. Council shall have the discretion to reinstate an existing non-complying crossing, or not.
- (2) Property owners are required to use existing vehicle crossings in such a way that damage does not occur to other sections of the road.
- (3) The ongoing maintenance of all new and existing vehicle crossings shall be the responsibility of, and at the expense of, the property owner. The extents to be maintained are—
  - (a) On sealed roads, the full width of the crossing from a straight line between the seal edges either side of the crossing (or an arc of the same radius of the roadway curve on bends) to the property boundary or the property side of kerb and channel to the property boundary where kerb and channel is installed. In some situations, where the vehicle crossing is unsealed, Council may maintain the first one and a half metres of the seal from the road to prevent damage to the roadway;
  - (b) On unsealed roads, from the water table to the property boundary or the edge of the road's maintained roadway where no water table is formed;
  - (c) Side culverts forming part of the entranceway;
  - (d) Council will maintain any of Council's footpaths, cycle paths or shared pathways that may cross the vehicle crossing.

## Part 7

### Working on the Road

#### 72 Purpose

The purpose of this part is to prescribe the conditions and specification requirements for any work in the maintained road that may interfere with the safe and efficient flow of traffic or any works, which include the excavation, trenching or opening of the road surface within any road controlled and managed by Council.

#### 73 General Conditions

- (1) All parties undertaking any work on, in or over the maintained road must submit a Corridor Access Request (CAR), have the required Traffic Management Plan approved, have a Works Access Permit issued and set up the worksite to the approved Temporary Traffic Management Plan, complying with the CoPTTM, before commencing their activities, except as is necessary to save lives and/or prevent serious injury.
- (2) The party undertaking the work may be required to give 24 hours notification prior to certain aspects of the work, for the purpose of inspection. If required, the inspections will be detailed in the Works Access Permit. The inspection may require works to be uncovered or partly removed to properly show methods and materials used in the construction.

## Part 8

### Damage to Council Assets During Property Development

#### 74 Purpose

The purpose of this part is to ensure public assets, including but not limited to, footpaths, kerb and channel and road signs, are protected from damage by property development activities such as the relocation of buildings or development of new buildings.

#### 75 General Conditions

- (1) All parties undertaking any work that may cause damage to district roads, including but not limited to damage to road signs, the road surface, kerb and channel, footpath and road verge as a result of development activity must submit a Corridor Access Request, have the required Traffic Management Plan approved, have a Works Access Permit issued, and set up the worksite to the approved Temporary Traffic Management Plan complying with the CoPTTM before commencing their activities.
- (2) Prior to the issuing of a Works Access Permit for any building relocation, Council may undertake a pre-inspection of the site(s) and route to be followed. The applicant or their representative must notify Council of the completion of the activity and Council will carry out another inspection of the site(s) and route of the relocated building.
- (3) If any damage to Council assets has occurred during the relocation of any building or structure, or during the development of new buildings, Council may have the repairs carried out by a suitably qualified contractor of its choice and recover the actual and reasonable costs from the party who caused the damage.

## Part 9

### Enforcement, Offences and Penalties

#### 76 Offences

- (1) No person shall do or cause any condition to exist for which a licence, permit or approval from Council is required under this bylaw without first obtaining that licence, permit or approval, and the failure to do so shall constitute a breach of this bylaw.



- (2) No application for a licence, permit or authority from Council, and no payment of, or receipt of any fee paid in connection with such application, licence, permit or authority, shall in itself be sufficient to confer any right, authority, or immunity on the person making such application or payment.
- (3) Any person commits a breach of this Bylaw who,—
  - (a) does or causes to be done, or knowingly permits or suffers to be done anything what so ever contrary to, or otherwise than as provided by, this bylaw; or
  - (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 them at the time and in the manner therein provided; or
  - (c) does not refrain from doing anything which under this bylaw they are required to abstain from doing; or
  - (d) knowingly permits or suffers any condition of, or thing to exist, contrary to any provision contained in this bylaw; or
  - (e) refuses, fails or neglects to comply with any notice or direction duly given under this bylaw; or
  - (f) obstructs or hinders any authorised officer in the performance of any duty to be discharged by such authorised officer under, or in the exercise of any power conferred by this bylaw.
- (4) Where it is suspected that any person has committed a breach of this bylaw, that person shall, on the direction of an authorised officer give his or her full name, full address, date of birth, occupation, and telephone number, or such of those particulars as the authorised officer may specify.

## **77 Penalties**

- (1) Every person convicted of an offence against this bylaw shall be liable to the penalties as set out in either the Land Transport Act 1998 or section 242 of the Local Government Act 2002.
- (2) If the offence is one to which section 243 of the Local Government Act 2002 applies, and is therefore an "**infringement offence**", the offender shall be liable to the infringement offence process and infringement fees, including towage fees, as prescribed by regulations made under section 259(b) of the Local Government Act 2002 or where any person is alleged to have committed an offence against this bylaw, be prosecuted against, pursuant to any other enactment so empowering Council.
- (3) The continued existence of any work, building, land, premises, droving or moving of stock, or thing in such a state or form as to be in contravention of any provision of this bylaw shall be deemed to be a continuing offence under this bylaw.
- (4) Any person, who commits an offence against this bylaw, where the offence is not an infringement offence under the above prescribed statutes, is liable on conviction to a fine not exceeding \$20,000.

## **Part 10**

### **Miscellaneous Provisions**

## **78 Repeals**

- (1) The following bylaws are revoked—
  - (a) Horowhenua District Council Traffic and Parking Bylaw 2007; and
  - (b) Stock Control and Keeping of Poultry, Bees and Pigs Bylaw 2005

## **79 Savings**

- (1) The revocation of the bylaws specified in clause 78(1) shall not prevent any legal proceedings, criminal or civil, being taken to enforce those bylaws and any such proceedings shall continue to be dealt with and completed as if the bylaw had not been revoked.

- (2) Any resolution, approval or other decisions made under a bylaw referred to in clause 78(1) remains in force in the area to which it applied until revoked or replaced by an equivalent resolution, approval or decision made by Council under this, or other applicable, bylaw

**80 Fees and Charges**

- (1) Council may, in accordance with section 150 of the Local Government Act 2002, prescribe fees or charges payable for any certificate, licence, approval, permit or consent form or inspection required by Council under this bylaw.
- (2) Except as otherwise provided in any statute, every fee or charge which is prescribed or charged pursuant to this bylaw, shall be such as to recover no more than the reasonable costs incurred by Council in respect of the matter for which it is prescribed or charged.

**81 General Conditions**

- (1) The Council is authorised, from time to time, to make resolutions to impose such prohibitions, restrictions, controls, or directions concerning the use of vehicular traffic or otherwise on any road controlled by Council.
- (2) All authorised officers appointed by Council under, or for the purpose of, any repealed bylaw, and holding office at the time of the coming into operation of this bylaw, shall be deemed to have been appointed under this bylaw.
- (3) In all cases where this bylaw provides for the issue of any order, notice or licence, such order, notice or licence shall be deemed to be issued in compliance with this bylaw if the same is issued by any authorised officer of the Council.
- (4) Under no circumstances will Council be held responsible for claims for damages in relation to compliance with any part of this bylaw.

**ATTESTATION**

The forgoing Bylaw entitled the **Land Transport Bylaw 2017** was duly made by the Horowhenua District Council by a resolution passed on the 15<sup>th</sup> day of March 2017 and confirmed following consideration of community submissions received by the use of the Special Consultative Procedure as required by the Local Government Act 2002 and meantime, having been publicly notified, was confirmed at an ordinary meeting of Council held on the 27<sup>th</sup> day of November 2017.

The Common Seal of the  
**HOROWHENUA DISTRICT COUNCIL**  
was hereunto affixed pursuant to a  
resolution of the said Council  
in the presence of:



*[Signature]* ..... His Worship the Mayor

*[Signature]* ..... Chief Executive