

CHBDC:Part 2:2008

CENTRAL HAWKE'S BAY DISTRICT COUNCIL BYLAWS



Part 2 – Public Places

Superseding Model General NZS 9201:Part 2:1999

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Explanatory Note

This Bylaw is based on the Model General Bylaw NZS9201:Part 2:1999 Public Places as compiled by Standards New Zealand. This Bylaw amends that Standard as necessary to meet the requirements of the Central Hawke's Bay District Council.

Copyright

The copyright of the Model General Bylaw NZS9201:Part 2:1999 Public Places is the property of the Standards Council. The copying and amendment of the Model Bylaw has been carried out by a Territorial Authority in the process of preparing its local bylaw, as permitted by the Standards Council.

Referenced Documents

Reference is made in this document to the following:

New Zealand Legislation

- Building Act 2004
- Dog Control Act 1996
- Land Transport Act 1998
- Local Government Act 1974
- Local Government Act 2002
- Reserves Act 1977
- Reserves and Domains Act 1953
- Resource Management Act 1991
- Sale of the Liquor Act 1989
- Transport Act 1962.

FOREWORD

The CHBDC Bylaws series covers various matters under local authority jurisdiction. Local authorities are empowered under a variety of Acts including the Local Government Act 2002 to make Bylaws.

There are new policy analysis, decision-making, and consultation requirements for the development of new bylaws (and the review of existing ones).

This Bylaw supersedes NZS 9201:Chapter 2:1999 Public places. The revision of the 1999 bylaw has been necessary to reflect the legislative changes, particularly the Local Government Act 2002, the Building Act 2004, the Resource Management Act 1991 and the Dog Control Act 1996. Also over the past ten years there has been a gradual evolution of local authority procedures and operating styles.

This Part now contains provisions for previous NZS 9201:Chapter 17 Parks and Reserves, and Chapter 19 Beaches: Bathing and Control which are superseded. It also includes new provisions for skateboards.

Reference should be made to CHBDC:Part 1:Introductory for any other definitions not included in this Part.

CHBDC BYLAWS

Part 2 - PUBLIC PLACES

200 SCOPE

The Local Government Act 2002 gives authority to Council to adopt bylaws to regulate activities which can be carried out in roads, public places and reserves. This Part of the bylaw controls a diverse range of activities to ensure that acceptable standards of convenience, safety, visual amenity and civic values are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the district. In particular this Part addresses damage to public facilities such as roads, grass verges, garden areas and reserves. It also addresses activities within public places and reserves which may have an adverse effect on other users of these facilities.

Part 8 (subpart 1) of the Local Government Act 2002 and other relevant Acts e.g. Reserves Act 1977, Health Act 1956, Litter Act 1979 outline some of the powers and requirements of Council in regard to streets, public places and reserves. Areas of control so prescribed by this legislation are not necessarily repeated within this bylaw, and therefore the relevant sections of these Acts should be read in conjunction with it.

201 DEFINITIONS

For the purposes of this bylaw the following definitions shall apply:

Cycle - means a vehicle having at least two wheels and designed to be propelled solely by the muscular energy of the rider. Children's cycles having wheels less than 350mm diameter are excluded.

Material or Thing - means any material of whatever kind and includes jumbo bins and other containers for waste material, but excludes vehicles.

Mind Altering Substance - means a substance whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include:

- (a) medically prescribed substances ingested by the person for whom they were prescribed;
- (b) substances purchased from a pharmacy without a medical prescription;
- (c) nicotine;
- (d) alcohol as defined in the Sale of Liquor Act 1989.

Public Place - means as well as those places defined in Part 1 Introductory, every reserve, park, domain, beach, foreshore, and recreational ground under the control of Council.

Road - means as well as that defined in Part 1 all land lying between the boundaries of a road including footpaths and berms.

Ride a Skateboard - means having either one or both feet, or any other part of the body of any person, on the skateboard when it is moving.

Skateboard - means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, or similar recreational devices. The definition does not include any wheelchair, baby or invalid carriage or bicycles.

202 PUBLIC SAFETY AND NUISANCES

202.1 Except with the prior permission of Council or an authorised officer a person shall not on any public place:

- (a) place or leave litter or any materials or thing or substances which are likely to be hazardous or injurious to any person, or likely to create a nuisance;
- (b) deposit in or around a public litter receptacle any household or trade refuse;
- (c) interfere with any refuse which is awaiting collection by an authorised collector;
- (d) drive any vehicle except on a formed road, or drive in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place;
- (e) cause or allow any material or thing to be deposited onto a public place or road;
- (f) leave any work, hole or excavation in a public place in a manner that could be a danger to anyone entering or using that public place;
- (g) solicit any subscription, collection or donation, preach or undertake any busking;
- (h) distribute any printed or written material advertising any product, service or entertainment;
- (j) fly from or land any aeroplane including model aeroplanes, a hot air balloon or hang glider, parachutes or similar except in an emergency;
- (k) consume, inject or inhale any mind-altering substances or offer or sell such substances to any person;
- (m) play any game or use any object including skateboards, roller blades, roller skates, bicycles or motorised scooters, recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to persons in the public place, or damage the public place;
- (n) erect or place any structure on, over or under the public place except in compliance with any other Part of this bylaw.

202.2 Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which in the opinion of an authorised officer could cause damage or injury to persons passing, the authorised officer may give notice requiring the owner or occupier to repair or remove the fence, wall or retaining wall, or make the land safe.

202.3 Notwithstanding the requirements of any other Section of this Part of the bylaw a person shall not in any public place:

- (a) light any fire except at fireplaces specially provided, or in an appliance designed for outdoor cooking; subject to any restriction imposed by Council on the lighting of fires;
- (b) camp in an area not set aside for the purpose. In this context camping shall include the use of any vehicle for sleeping whether or not it is specially set out for sleeping.

203 OBSTRUCTING PUBLIC PLACES

A person shall not:

- (a) obstruct the entrances to or exits from a public place;
- (b) place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage, without the permission of an authorised officer and then only in accordance with such conditions as may be imposed;
- (c) allow any gate or door on property abutting a public place, to swing over or across the public place or any part thereof;
- (d) carry out any work on any motor vehicle in a public place, except in the case of any accident or emergency when repairs are necessary to allow the vehicle to be removed.

204 DAMAGE TO PUBLIC PLACES

204.1 Except with the permission of Council or an authorised officer a person shall not in any public place:

- (a) damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub or plant or any inscription or label relating to it;
- (b) pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with any ornament, statue, building, structure, or facilities.

Nothing in this sub-section shall prevent Council from supplying or approving the installation of display boards in any public place for the purpose of allowing posters to be displayed announcing forthcoming functions or events;

- (c) cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place;
- (d) damage or interfere with any natural feature, animal or plant;
- (e) use any vehicle or be in control of an animal in any manner so that it damages any part of a public place;
- (f) drive or park any vehicle in a public place except in an area set aside for the driving or parking of vehicles;
- (g) remove any sand, soil or other naturally occurring material found in a public place;
- (h) open any drain or sewer on, or disturb or remove the surface of, any public place.

204.2 Any person carrying out authorised works on a public place shall provide reinstatement of the works to a standard approved by an authorised officer.

204.3 Any person wishing to gain access to a beach shall use a designated access where this is available.

205 PLACING OF ARTICLES ON, AND DAMAGE TO PUBLIC PLACES

- 205.1** A person shall not place or leave or cause or permit to be placed or left any material or thing, including signage, amusement devices or items for sale or hire, on any public place unless:
- (a) such action has first been approved by Council or an authorised officer, and then only in accordance with such conditions as he or she may impose; or
 - (b) such action is taken for the purpose of regular refuse or other collections authorised by Council or is otherwise authorised by law; or
 - (c) such action is permitted pursuant to any other Part of this bylaw.
- 205.2** A person shall not do, cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place.

206 CONTROL OF SKATEBOARDS

- 206.1** No person shall ride a skateboard in any area defined in the First Schedule attached to this Part of the bylaw, or cycle on a footpath in any area defined the First Schedule attached to this Part of the bylaw.
- 206.2** No person shall ride a skateboard or cycle on any footpath outside areas defined in the First Schedule, without due care to ensure no damage is caused to any property or without reasonable consideration for other persons using the footpath.
- 206.3** Council may from time to time by resolution publicly notified, amend the First Schedule, to add, delete or amend the areas to which the provisions of this bylaw shall apply.
- 206.4** Every person who commits an offence against this Bylaw is liable to have the skateboard or cycle impounded by any officer.
- 206.5** Any person claiming a skateboard or cycle that has been impounded pursuant to this Bylaw shall:
- (a) satisfy Council or its appointed officer that he or she is the owner or otherwise entitled to the custody and control of the skateboard or cycle, and
 - (b) pay to Council a fee of such an amount as Council may determine by resolution.
- 206.6** Council shall provide a secure place for any skateboard or cycle impounded under this Bylaw.
- 206.7** Council shall keep a register and enter details of every skateboard or cycle impounded and every person claiming a skateboard or cycle under this Bylaw.
- 206.8** Council may from time to time by resolution publicly notified alter the fee payable under Section 206.5 of this Bylaw.
- 206.9** Nothing contained in this Bylaw shall render Council or any officer liable in damages or otherwise to any person for any skateboard or cycle impounded under the provisions of this Bylaw.

207 EXPOSING ARTICLES FOR SALE

Except as provided for by any other Part of this bylaw no person shall expose for sale any article whatsoever on any footpath, or outside of any shop, shop window, or doorway abutting on any public place, so as to encroach on or over that public place, without the prior permission of Council, and then only in accordance with such conditions as Council may think fit to impose.

208 VEHICULAR CROSSINGS

- 208.1** Any person wishing to construct, repair, remove or widen any vehicular crossing shall first obtain a permit from Council.
- 208.2** A permit issued by Council under Section 208.1 may be subject to such conditions concerning dimensions and materials as Council may consider reasonably necessary to protect the road (including any footpath or berm) adjacent to the vehicular crossing, and to ensure safe and convenient use of the road by pedestrians and vehicles.
- 208.3** No person shall drive, ride, propel, or wheel any motor vehicle across any footpath or water channel in any public place otherwise than upon a crossing properly constructed under the provisions of this bylaw.
- 208.4** If in the opinion of Council any crossing is in a bad or unsafe state of repair, Council may by notice in writing, require the owner of the land which the crossing provides access to, to repair, reconstruct, or renew such crossing to the satisfaction of Council. Every such owner or occupier who fails to comply with any such notice within the period specified shall commit an offence against this Part of this bylaw.

209 ASSEMBLY

A person shall not, without the prior consent of an authorised officer:

- (a) participate in any assembly or associate with other persons in a public place in such a way as to impede pedestrian or vehicular traffic or to prevent or hinder ready access to shops or premises facing onto the public place;
- (b) organise or conduct any meeting, gathering, demonstration, parade, procession or competition in a public place.

210 AWNINGS AND BLINDS

No person shall erect or maintain, or cause to be erected or maintained, any awning over any public place, or hang any awning, blind, or screen from any portico on any public place except with the permission of an authorised officer. In granting such permission an authorised officer may set such conditions as is deemed appropriate. Any such permission may be revoked at any time by an authorised officer.

211 PROJECTIONS ON PUBLIC PLACES NOT PERMITTED

211.1 Except where permitted by any other Part of this bylaw or by Council consent no person shall put any portico, projecting window, balcony, wall, lamp, door step, cellar door, lamp post, signboard, window shutter, gate post, or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with or obstruct in any way the free passage of pedestrians or traffic upon any public place.

This restriction shall not apply to any veranda or awning erected pursuant to a requirement of a District Plan.

211.2 If any such projection or obstruction as aforesaid has been placed against or in front of any building before the coming into operation of this bylaw and which is contrary to any bylaw in force, Council may give notice to the owner or occupier of such building to remove, or to alter such projection or obstruction, and such owner or occupier shall, within the time stated in such notice, remove, or alter such projection or obstruction.

211.3 No person shall stand on any veranda erected over a public place except for the purpose of inspection, maintenance or egress in the case of fire.

212 RESTRICTIONS ON USE OF BARBED WIRE AND ELECTRIFIED FENCES

212.1 Except with the permission of an authorised officer:

No person shall erect or permit to be erected any electrified fencing or barbed wire along, or within one (1) metre of any boundary line between any land or building on the one side, and any public place on the other side.

Provided that this sub-section shall not prohibit the placing of such barbed wire at a height of not less than two (2) metres or electrified fencing not less than three (3) metres from the level of the ground of any such public place.

212.2 Sub-Section 212.1 shall not apply within any area which has a predominantly rural character under the District Plan prepared by Council, except when the fence abuts or adjoins a footpath; provided that Council may from time to time by resolution specify conditions that will apply to temporary electric fences.

213 Road and Building Identification

213.1 Council shall have the exclusive right to cause to be painted or affixed on a conspicuous part of a building, the name of the road, private road or public place to which it has frontage.

213.2 Notwithstanding that a building or property is identified by other means, the owner or occupier of every building or group of buildings forming part of a complex or of the property shall mark such building or complex with numbers no less than 50 mm in height for residential buildings and not less than 150 mm in height for all other buildings. Numbers shall be as allocated or approved by an authorised officer and displayed in a position so as to be readily visible from the road to which it has frontage.

- 213.3** Numbers required by Section 213.2 shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.
- 213.4** Council shall have power at any time to alter the number of any building where in Council's opinion it may be necessary or advisable to do so.

214 OVERHANGING VEGETATION LIABLE TO OBSTRUCT

No person shall permit or allow vegetation to encroach onto or over any public place so as to obstruct or interfere with the free movement of persons or vehicles using that public place.

215 ADDITIONAL REQUIREMENTS FOR RESERVES

- 215.1** Subject to the provisions of this Part of this bylaw every reserve shall be open to the public at all times except during such hours as Council or an authorised officer may determine that any reserve shall be closed to the public.
- 215.2** An authorised officer may from time to time and for such periods as he or she thinks fit, set aside areas of a reserve, for the exclusive use of particular groups or for particular kinds of recreational activities thereon. Council may charge for the right to have exclusive use of a reserve.
- 215.3** Council may fix charges for the entry to a reserve in accordance with the Reserves Act 1977, and it shall be an offence against this Part of the bylaw to enter a reserve without having paid the proper charge for entry, if a charge is payable.
- 215.4** An authorised officer may close or restrict entry to all of, or any portion of, a reserve at such times as are considered necessary to prevent damage to, or allow maintenance of the reserve. Such closure shall be advertised by signs at the entrances to the reserve. It shall be an offence against this Part of the bylaw to be found on a reserve at any time when the reserve is closed to public entry.
- 215.5** Every person committing a breach of the provisions of this Part of the bylaw shall, upon request by an authorised officer, immediately leave the reserve, and shall be prohibited from appearing on the reserve for such period as the authorised officer deems fit. Any person so ordered to leave shall still be liable to be prosecuted for the breach of the bylaw, and any person failing to leave with reasonable speed, to comply with a request to leave, shall commit a further offence.

216 BYLAW APPROVAL DATE

The Common Seal of the Central Hawke's Bay District Council was attached, under Resolution (*Reference - CHBDC:Part2:2008*) passed at a meeting of the Central Hawke's Bay District Council held on (Day) (Month) (Year).

DATE CONFIRMED : ____/____/____

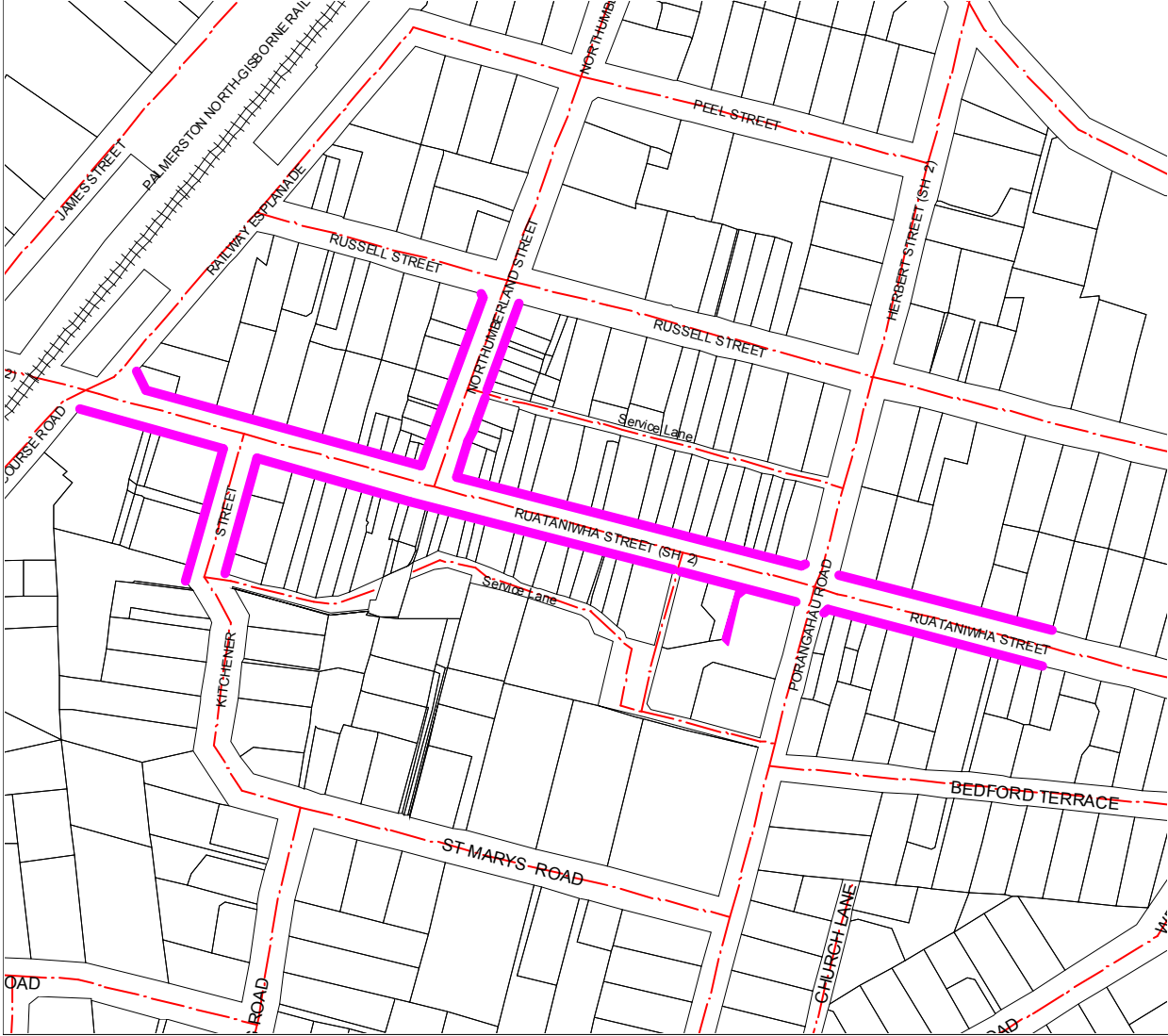
FIRST SCHEDULE

Areas where riding of skateboards is prohibited on footpaths and other public places are as follows:

1. Both sides of Ruataniwha Street, Waipukurau from the intersection with Racecourse Road and Railway Esplanade east to a line between the R.S.A. entrance and the opposite side of the road.
2. The footpath area between the public car park (located between the telephone exchange building and the old Waipukurau post office site or 'the green patch') and Ruataniwha Street that is along the side of the business premises.
3. Both sides of Northumberland Street, Waipukurau, between Ruataniwha and Russell Streets.
4. Both sides of Kitchener Street, Waipukurau, from Ruataniwha Street and a line between the South Service Lane and the opposite side of the road.
5. The western side of High Street, Waipawa between where it intersects with Kenilworth Street and Islington Drive.

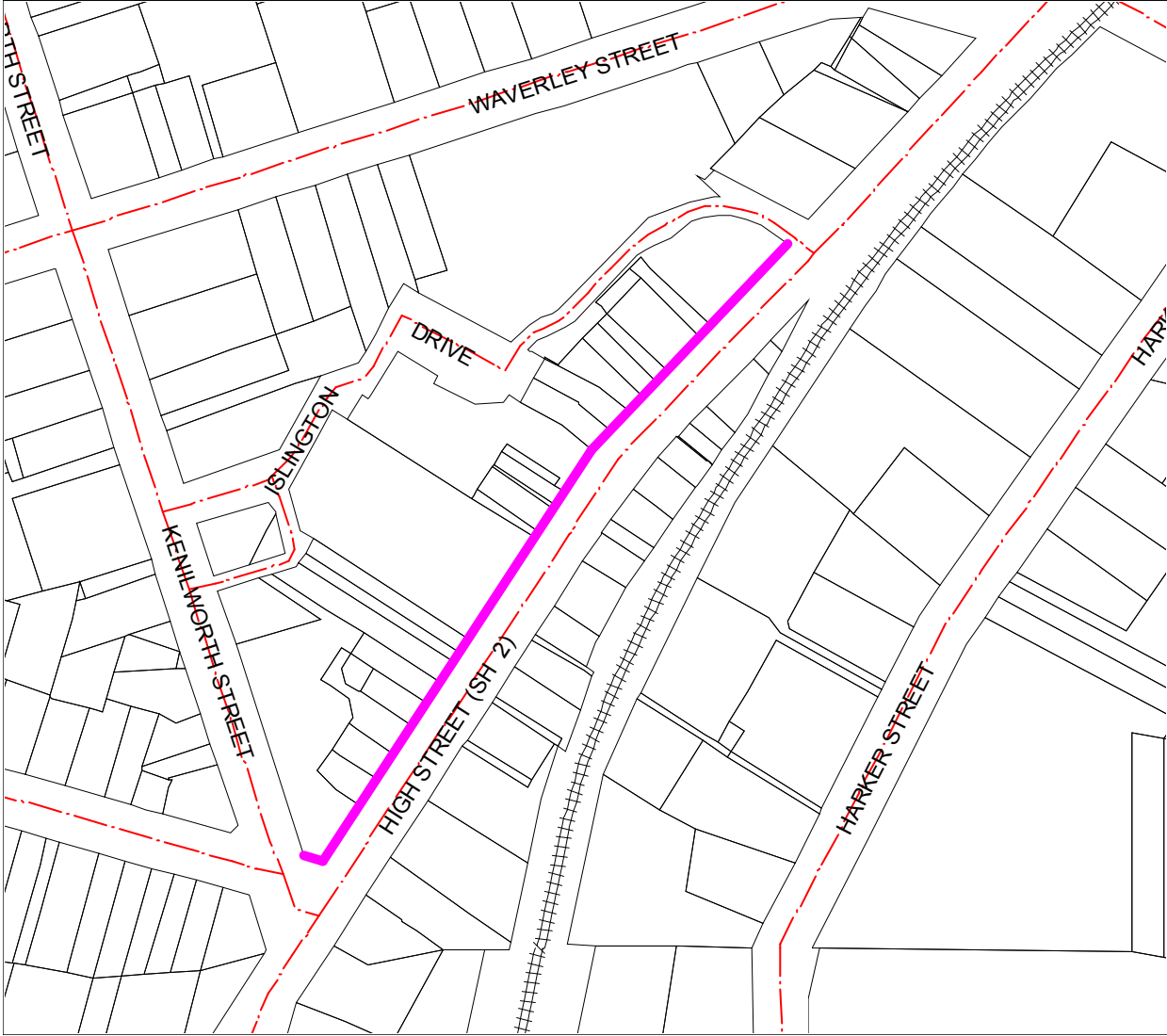
See attached maps

WAIPUKURAU



AREA SHOWING SCHEDULE 1

WAIPAWA



 AREA SHOWING SCHEDULE 1