

**New Zealand Transport Agency
Instrument of Delegation**

**Delegation
to Far North District Council
relating to Stationary Vehicle Offences on State Highways**

PURSUANT TO the following:

- a. A resolution and written notice by the Board of the New Zealand Transport Agency ("**Transport Agency**") dated **9 November 2018**:
 - i. delegating the powers specified in Schedule 1 of this Instrument to territorial authorities, subject to the conditions set out in each territorial authority's individual instrument of delegation; and
 - ii. consenting to and authorising the Chief Executive of the Transport Agency ("**Chief Executive**") to sign individual instruments of delegation with territorial authorities on the Transport Agency's behalf; and
- b. Section 62(1) of the Government Roading Powers Act 1989 ("**GRPA**"), authorising the Transport Agency to delegate to territorial authorities (amongst other things) all or any of the functions, duties, and powers of control conferred on the Transport Agency by the GRPA with respect to any state highway or any portion of a state highway;

THE TRANSPORT AGENCY DELEGATES to **Far North District Council** ("**Territorial Authority**" or "**Delegate**") such of the Transport Agency's functions and powers as are specified in Schedule 1 to this Instrument.

THIS DELEGATION IS SUBJECT TO the conditions set out in Schedule 1 (specific conditions) and Schedule 2 (general conditions) to this Instrument.

THIS INSTRUMENT TAKES EFFECT on and from **1 March 2022** (or such later date as the Territorial Authority accepts this delegation by signing this Instrument) and expires, unless earlier revoked by notice in writing from the Transport Agency to the Territorial Authority, on **30 June 2026**.

ALL PREVIOUS DELEGATIONS (if any) of the functions and powers specified in this Instrument made by the Transport Agency to the Territorial Authority are revoked on and from the date on which a bylaw made by the Territorial Authority of the kind enabled by this Instrument takes effect.

NOTHING IN THIS INSTRUMENT OR THIS DELEGATION shall be affected by any other equivalent instrument or delegation made to another territorial authority, or the revocation or amendment of any other equivalent instrument or delegation.

A BYLAW MADE IN ACCORDANCE WITH THE DELEGATION UNDER THIS INSTRUMENT is (with effect from the date on which it is made or takes effect) intended to supersede (and, as regards the area of the state highway to which that bylaw relates, exclude) any existing bylaw made by the Transport Agency or the Territorial Authority for the same area of state highway on the same subject matter.

SIGNED at **WELLINGTON**
On the 10 day of February, 2022
By the Chief Executive of the
NEW ZEALAND TRANSPORT AGENCY

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Nicole Rosie

Schedule 1
Delegations and Specific Conditions

Function or power delegated under this Instrument: The Transport Agency's power of control of parking and stationary vehicle offences on areas of state highways in the Territorial Authority's district under section 61(1) of the GRPA, including to the extent required to enable, and together with all ancillary powers of control necessary for, the Territorial Authority to become a road controlling authority and make bylaws for those areas of state highways under section 22AB(1)(m) to (o) (inclusive) of the Land Transport Act 1998 ("LTA").

Specific condition/s attaching to the delegation: Without limiting any other law of mandatory application to the Delegate, the delegation under this Instrument is subject to the following specific condition/s:

- i. The power of control granted by this delegation and any bylaw made in reliance on the power of control granted by this delegation may only apply to the areas of state highways within the Territorial Authority's district referred to below:

Description	Road positions
Kawakawa	SH01N,198,12535 to SH011,0,1133
Paihia	SH011,14,2892 to SH011,14,1254
Kaitaia	SH01N,104,5250 to SH01N,104,8343
Kaikohe	Between SH012,10,1062 and SH012,09,276 and SH015,9,1293

Please also see attached appendix A for a plan showing approximate location of delegation extent.

- ii. The Delegate must consult with the Transport Agency and the Commissioner of Police prior to making, amending, replacing or revoking a bylaw of the kind enabled by this delegation.
- iii. A bylaw made (or amended or replaced) by the Delegate of the kind enabled by this delegation must be made (or amended or replaced) in a manner which complies with section 22AD(1) of the LTA.
- iv. The Delegate must comply with all relevant requirements contained in section 22AE of the LTA with respect to a bylaw of the kind enabled by this delegation is made, amended or replaced on the basis that the Delegate (and not the Transport Agency) is the road controlling authority for all purposes under that section.
- v. Without limiting anything in specific condition (iv) above, the Delegate must give public notice of the making of (or any amendment to, revocation of, or replacement of) a bylaw of the kind enabled by this delegation by publication in the *Gazette*.
- vi. The Delegate must notify the Transport Agency within [3] days after a bylaw of the kind enabled by this delegation is made, or amended, revoked, or replaced and at the same time provide a copy of the bylaw, the amendment or the replacement.

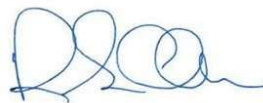
- vii. The Delegate will be solely responsible for enforcing any bylaw of the kind enabled by this delegation and the Delegate will be the enforcement authority under, and for the purposes of, section 141(5) of the LTA. The Delegate will ensure that its parking wardens take all reasonable steps to enforce any such bylaw (including by issuing infringement notices).
- viii. As the road controlling authority for the area of state highway specified in these conditions, the Delegate will be entitled to claim, receive, recover and retain all fees and charges levied for parking and all infringement fines and towage fees referred to in section 141(5) of the LTA.
- ix. The Delegate will ensure that it provides the Transport Agency and Commissioner of Police with all particulars that are required to be provided under s 141(2) of the LTA.

Schedule 2
General Conditions of Delegation

- i. The carrying out of any function or exercising of any power by the Delegate must be in accordance with all relevant legislation.
- ii. The carrying out of any function or exercising of any power by the Delegate must be in accordance with all relevant Transport Agency policies and procedures, directions, requirements or limitations that are notified in writing by the Transport Agency to the Delegate from time to time.
- iii. The Transport Agency will not perform or exercise any of the functions or powers delegated under this Instrument in respect of the area/s specified in Schedule 1 while the delegation provided for in this Instrument continues in force.
- iv. The Delegate must keep records in relation to the carrying out of any function or the exercising of any power by the Delegate pursuant to, or enabled by, this Instrument, and provide these to the Transport Agency (or its nominee), or such other reporting as the Transport Agency may reasonably request.
- v. The delegations in this Instrument are revocable at will by the Chief Executive (if relevant, acting on behalf of the board of the Transport Agency), and may be revoked by notice in writing either generally or in respect of any specific function or power, including with effect from a future date specified in such notice.
- vi. Any changes to this Instrument (other than its revocation) may only be made by agreement in writing between the Chief Executive (if relevant, acting on behalf of the board of the Transport Agency) and the Delegate and will need to be recorded as an amendment to this Instrument.
- vii. The Transport Agency will remain the road controlling authority for state highways for all purposes other than those functions and powers delegated under this Instrument.

BY SIGNING BELOW the Territorial Authority **ACCEPTS THE DELEGATION** provided for in this Instrument on the terms and subject to the conditions set out above.

SIGNED at **KERIKERI**)



On the 24th day of January 2022)

By Robert Shaun Clarke, Chief Executive)

of the **Far North District Council**)

Explanatory Note

The Transport Agency wishes to better enable the efficient regulation and management of the stopping, standing and parking of vehicles on (or adjacent to) roads that are state highways.

The Transport Agency wishes to empower territorial authorities to control this behaviour on specified roads that are state highways within their districts and for them to use their parking wardens to carry out enforcement of bylaws passed by territorial authorities for that purpose.

The Transport Agency is permitted under section 62 of the GRPA to delegate any of its powers of control with respect to such matters to territorial authorities.

The Territorial Authority is free to promulgate its own preferred form of bylaw in reliance on the power delegated under this Instrument. For example, the Territory Authority may wish to replicate an equivalent existing bylaw it has for the stopping, standing and parking of vehicles on local roads it administers.

However, to assist the Territorial Authority, the Transport Agency has prepared a form of bylaw that the Territorial Authority could consider adapting for its own purposes. This same suggested form of bylaw will be provided to other territorial authorities.

The Transport Agency considers that a bylaw that is in, or substantially in, this form will comply with the scope and other requirements set out in this Instrument.

The Transport Agency also has an interest in ensuring that there is a sufficient degree of consistency across the bylaws to be promulgated by different territorial authorities pursuant to delegations made in substantially the same form as this Instrument.

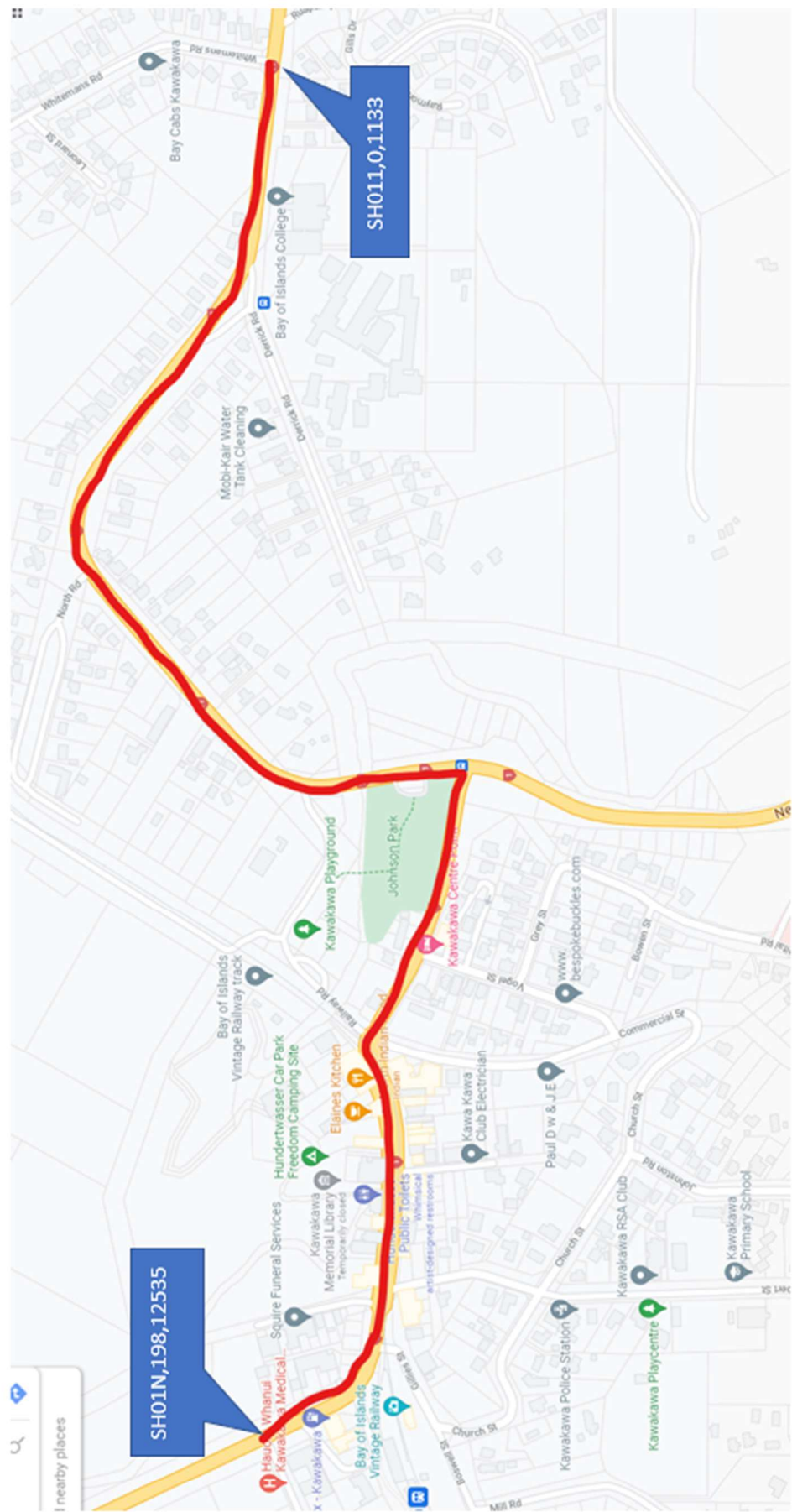
The Transport Agency does require that the basic content contained in the suggested form of bylaw be addressed in any bylaw promulgated in reliance on the power delegated under this Instrument. However, the Territorial Authority may choose whether or not to include clause 13 (which provides for control of road-side car sales and advertising).

Except for this Instrument and any requirement that is specified as mandatory by the Transport Agency (including during consultation on the form of the bylaw proposed by the Territorial Authority), the Transport Agency shall not be responsible for the form, content or lawfulness of any bylaw made, amended or replaced by the Territorial Authority in reliance on this Instrument.

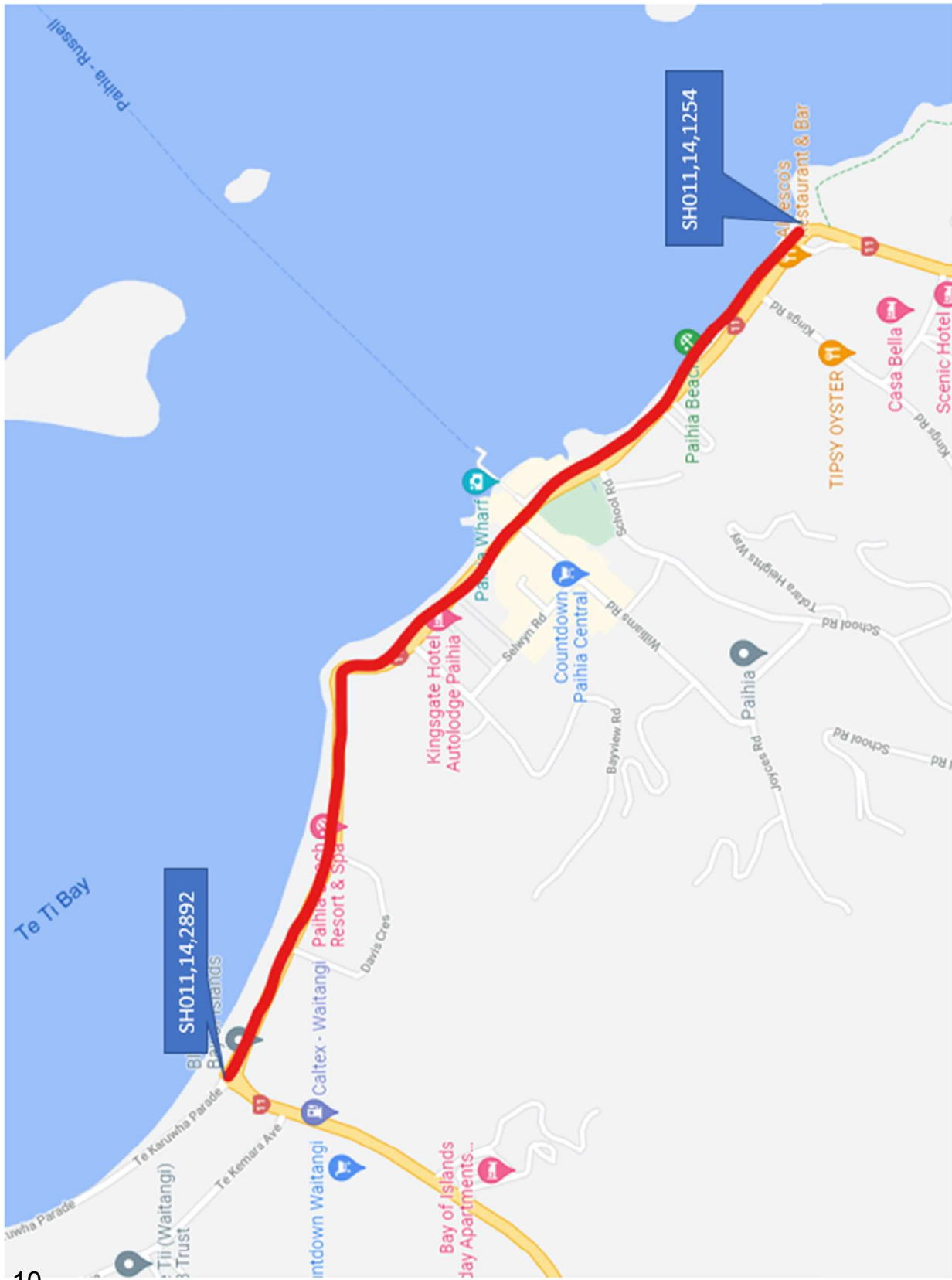
The Transport Agency will separately notify, or otherwise communicate with, the Territorial Authority regarding any other process and timing requirements or preferences that it may have with respect to the making, amending or replacing by the Territorial Authority of any bylaw that is reliant on this Instrument.

This explanatory note, and the accompanying indicative form of bylaw, are for information purposes only and do not form part of this Instrument.

Appendix A – Approximate locations of delegation extent



Kawakawa - Whitemans Rd to Rayner St

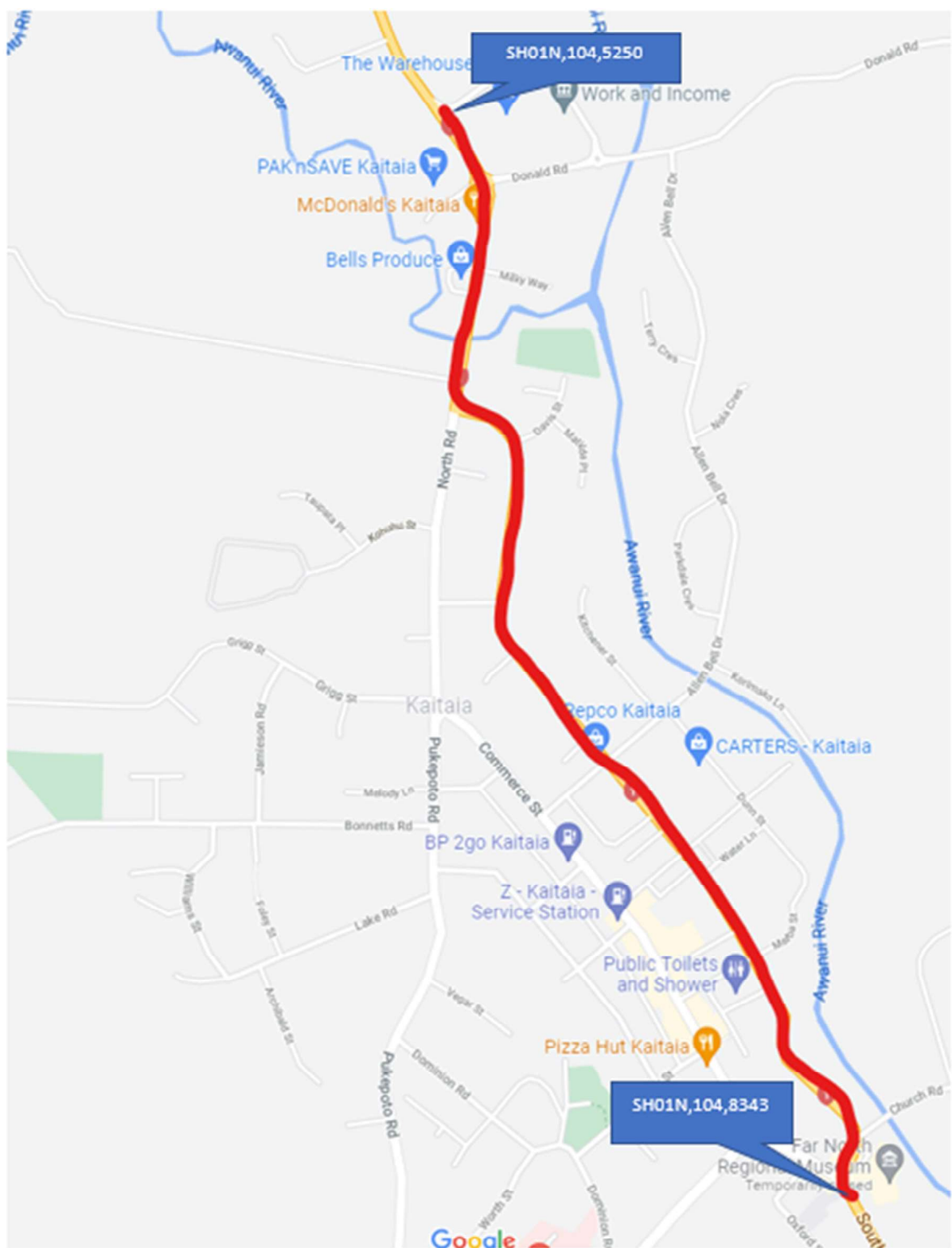


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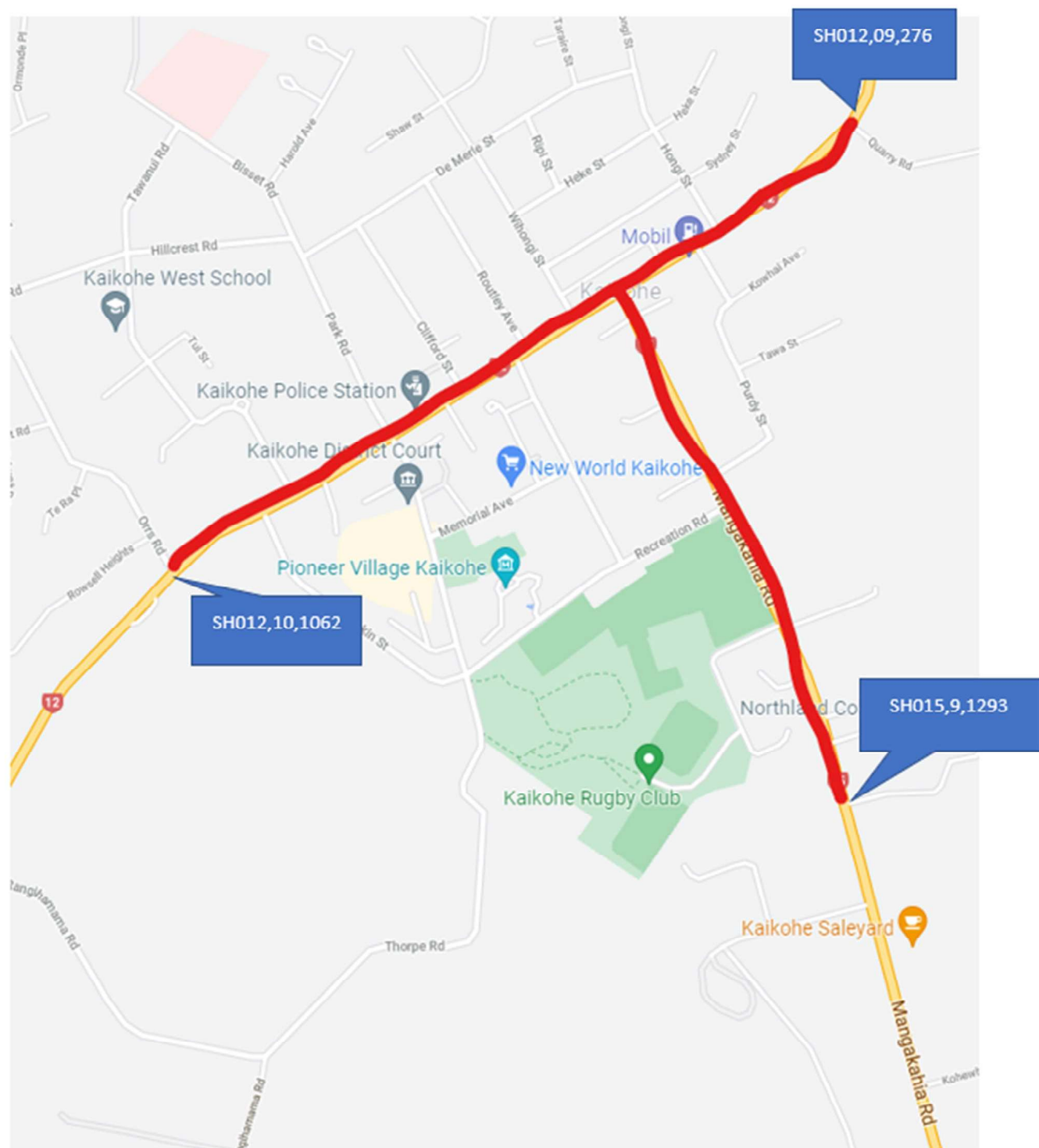
Paihia – Public toilets opposite Al Fresco's to the Bluff

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Kaitia – Te Ahu to North Park Drive



Kaikohe – Quarry Rd to Orrs Rd & junction of SH12 and 15 to Quarry Rd