

**MINUTES OF WESTERN BAY OF PLENTY DISTRICT COUNCIL
POLICY COMMITTEE MEETING NO. PP22-2
HELD VIA ZOOM ONLY (AUDIO/VISUAL LINK) UNDER COVID-19 PROTECTION FRAMEWORK
RED (PHASE THREE) ON THURSDAY, 10 MARCH 2022 AT 9.30AM**

1 PRESENT

Mayor G Webber (Chairperson), Cr G Dally, Cr M Dean, Cr J Denyer, Cr M Grainger, Cr M Gray, Cr A Henry, Cr K Marsh, Cr M Murray-Benge, Deputy Mayor J Scrimgeour, Cr A Sole and Cr D Thwaites

2 IN ATTENDANCE

J Holyoake (Chief Executive Officer), G Allis (Deputy CEO/Group Manager Infrastructure Services), R Davie (Group Manager Policy Planning and Regulatory Services), E Watton (Policy and Planning Manager), D Jensen (Finance Manager), L Balvert (Communications Manager), C McLean (Senior Transportation Engineer), M Leighton (Senior Policy Analyst), T Rutherford (Policy Analyst), C Stevens (Kaupapa Māori Specialist), and B Clarke (Senior Governance Advisor)

3 APOLOGIES

Nil.

4 CONSIDERATION OF LATE ITEMS

Nil.

5 DECLARATIONS OF INTEREST

Nil.

6 PUBLIC EXCLUDED ITEMS

Nil.

7 PUBLIC FORUM

MICHAEL MILLS REPRESENTED **TE RŪNANGA O NGĀI TE RANGI IWI TRUST**. HE ADDRESSED THE COMMITTEE ON THE LOCAL ALCOHOL POLICY, AND ALCOHOL CONTROL BYLAW AS FOLLOWS:

- APPRECIATED COUNCIL'S INTENTION TO ADDRESS ALCOHOL RELATED HARM IN THE COMMUNITY THROUGH THE LOCAL ALCOHOL POLICY (LAP) AND RELATED ACTIVITIES.
- ONGOING ENGAGEMENT WITH STAFF WAS ACKNOWLEDGED.
- PROPOSED REGULATORY ELEMENTS IN THE LAP WERE STRONGLY SUPPORTED, INCLUDING 9:00PM CLOSING TIME, AND THE CAP ON OFF-LICENSES IN TE PUKE-MAKETU WARD.

- SOME SUBMISSIONS HAD SOUGHT TO RESTRICT THE GRANTING OF FURTHER OFF-LICENSES IN ŌMOKOROĀ AND KATIKATI. CONCERNED WITH HOW THIS COULD BE ADDRESSED IN FUTURE, SHOULD THESE AREAS REACH SATURATION POINT.
- SUPPORTED A “REBUTTABLE PRESUMPTION”, WHICH MEANT NO NEW LICENCES, UNLESS AN APPLICANT COULD MAKE A STRONG CASE FOR ONE. IF APPLIED DISTRICT-WIDE, THIS WOULD GIVE THE DISTRICT LICENSING COMMITTEE GREATER CAPABILITY TO MANAGE THE INCREASE IN NEW LICENCE APPLICATIONS, AND PUT GREATER RESPONSIBILITY ON APPLICANTS TO JUSTIFY THEIR APPLICATION. IT WOULD NOT BE INCONSISTENT WITH A CAP OR OTHER RESTRICTIONS IN SPECIFIED AREAS, IF DEEMED NECESSARY.
- STRONGLY URGED INCLUSION OF DISCRETIONARY CONDITIONS.
- IMPOSITION OF SPECIFIED CONDITIONS FOR OFF-LICENSES, 9:00PM CLOSING HOURS AND THE “REBUTTABLE PRESUMPTION” WERE ACCEPTED AS REASONABLE BY THE COURT OF APPEAL, PROVIDING JUDICIAL VALIDATION ON THESE MATTERS.
- SOUGHT GREATER COMMUNITY ENGAGEMENT/INPUT INTO LICENSING DECISIONS, SUCH AS IMPROVED NOTIFICATION PROCESSES, AND CONSULTATION THROUGH SUBMISSIONS/HEARINGS PROCESSES. SUPPORTED STAFF INITIATIVES RELATING TO THESE MATTERS.
- SUPPORTED GREATER EFFORTS TO ENGAGE WITH LICENSEES, WITH THE AIM OF PRE-EMPTING ISSUES.
- CONCERNED WITH INCREASED ONLINE/REMOTE ALCOHOL SALES AND HOME DELIVERIES SINCE THE COVID-19 PANDEMIC OUTSET, AS ALMOST NO CONTROLS TO MINIMISE HARM. SUGGESTED HOME DELIVERIES COULD BE CONTROLLED VIA DISCRETIONARY CONDITIONS.
- SOUGHT IWI/MĀORI REPRESENTATION ON THE DISTRICT LICENSING COMMITTEE, AND HEARINGS PROCESSES MORE AMENABLE TO COMMUNITY AND CULTURAL SENSITIVITIES, BY HOLDING HEARINGS WITHIN EFFECTED COMMUNITIES AND CONSIDERING TIMING OF HEARINGS.
- RECOMMENDED PROVISION IN THE LAP FOR A DISCRETIONARY MĀORI CULTURAL REPORT ON MATTERS OF CONCERN.

MR MILLS RESPONDED TO A QUESTION OF CLARIFICATION AS FOLLOWS:

- WITH REGARD TO REMOTE/ONLINE SALES, THERE WAS CURRENTLY NO CLEAR LEGAL PATH. IT APPEARED THE SALE AND SUPPLY OF ALCOHOL ACT 2012 HAD NOT ANTICIPATED THIS KIND OF RETAIL ACTIVITY TO THIS EXTENT. DISCRETIONARY CONDITIONS IN THE LAP COULD INCLUDE NEGOTIATION WITH LICENSEES. THERE MAY BE FUTURE LEGISLATIVE CHANGES IN THIS REGARD.

THE CHAIRPERSON THANKED MR MILLS FOR HIS VERBAL ADDRESS.

8 PRESENTATIONS

Nil.

9 REPORTS

9.1 LOCAL ALCOHOL POLICY AND ALCOHOL CONTROL BYLAW REVIEWS - DELIBERATIONS AND ADOPTION OF PROVISIONAL POLICY AND RECOMMENDATION TO COUNCIL FOR ADOPTION OF THE BYLAW

The Senior Policy Analyst's report was taken as read. Responses to questions were as follows:

- In relation to the relocation of existing licensed premises to a site nearby, e.g. moving close to a school, the District Licensing Committee could consider that through the license application process.
- There had been requests from some submitters to improve public notification to ensure greater awareness of license applications in communities. The non-regulatory matters, in paragraph 22 of the agenda report, stated that Council was seeking to raise public awareness of new alcohol license applications/renewals for on-licenses, off-licenses and club licenses. This paragraph was in the body of the report, and Part 11 of the recommendation referenced it.
- People could not object to license applications anonymously, as submission processes, whether under the Local Government Act 2002, or Sale and Supply of Alcohol Act 2012, required submitters to put their name to their submission, which was then publicly available, and formed part of the process record. It would be difficult for an anonymous submission to have any weight in such a process. Regardless of the uniqueness of any particular application, Council must ensure its processes were fair, transparent and met legal obligations. Staff undertook to further consider the matter, but noted it did not preclude Council from its decision-making at this meeting.

The Chairperson noted that the recommendation would be dealt with 'in parts' as follows:

RESOLUTION PP22-2.1 – PARTS 1 & 2

Moved: Cr A Sole

Seconded: Cr A Henry

1. That the Senior Policy Analyst's report dated 10 March 2022, titled 'Local Alcohol Policy and Alcohol Control Bylaw Reviews - Deliberations and Adoption of Provisional Policy and Recommendation to Council for Adoption of the Bylaw', be received.
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2. That the report relates to an issue considered to be of medium significance in terms of Council's Significance and Engagement Policy.

CARRIED

RESOLUTION PP22-2.2 – PART 3(A)

Moved: Cr G Dally

Seconded: Cr J Denyer

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:

- a. Off-licence hours: Option B – Final sales time to be 9.00pm.

CARRIED

RESOLUTION PP22-2.3 – PART 3(B)

Moved: Cr M Murray-Benge

Seconded: Cr M Gray

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:

- b. Limit on number of bottle stores in the Te Puke – Maketu Ward area: Option A – Amend wording to allow for the sale of existing licenced premises or relocation of an existing premise to a site nearby.

CARRIED

RESOLUTION PP22-2.4 – PART 3(C)

Moved: Cr G Dally

Seconded: Cr J Denyer

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:

- c. Location of the limit on new bottle stores: Option A – Limit applies in Te Puke – Maketu Ward only.

CARRIED

RESOLUTION PP22-2.5 – PART 3(D)

Moved: Cr M Dean

Seconded: Cr J Denyer

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:
 - d. Limit on new bottle stores or expand type: Option A – Limit on new bottle stores only.

CARRIED

RESOLUTION PP22-2.6 – PART 3(E)

Moved: Cr M Grainger

Seconded: Deputy Mayor J Scrimgeour

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:
 - e. Off-licence conditions / discretionary conditions: Option F – Do not introduce new conditions/discretionary conditions.

CARRIED

RESOLUTION PP22-2.7 – PART 3(F)

Moved: Cr A Sole

Seconded: Cr G Dally

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:
 - f. On licences hours: Option A – Retain the current Local Alcohol Policy (LAP) provisions.

CARRIED

RESOLUTION PP22-2.8 – PART 3(G)

Moved: Cr J Denyer

Seconded: Cr D Thwaites

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:
 - g. One way door policy: Option C – Delete the one way door provision.

CARRIED

RESOLUTION PP22-2.9 – PART 3(H)

Moved: Cr M Dean

Seconded: Cr A Henry

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:
 - h. Club licences: Option A - Create a separate section for Club licences, but retain the current LAP provisions.

CARRIED

RESOLUTION PP22-2.10 – PART 3(I)

Moved: Cr D Thwaites

Seconded: Cr A Sole

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:
 - i. Club licence hours: Option A - Retain current hours 9.00am-1.00am.

CARRIED

RESOLUTION PP22-2.11 – PART 3(J)

Moved: Cr G Dally

Seconded: Deputy Mayor J Scrimgeour

3. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following option for the Provisional Local Alcohol Policy is chosen:
 - j. Special licences: Option A - Retain the current LAP provisions.

CARRIED

RESOLUTION PP22-2.12 – PART 4

Moved: Cr A Henry

Seconded: Cr M Gray

4. That the provisional Local Alcohol Policy be adopted, as per attachment C of the agenda report, and publicly notified.

CARRIED

RESOLUTION PP22-2.13 – PART 5

Moved: Cr M Murray-Benge

Seconded: Cr A Henry

5. That, in considering the submissions received and the options presented through Attachment B of the agenda report, the following options for the Alcohol Control Bylaw are chosen:
- The extent of the alcohol control areas: Option A - Expand the existing Alcohol Control Area to cover Te Puke more broadly.

CARRIED

RESOLUTION PP22-2.14 – PART 6

Moved: Cr M Dean

Seconded: Cr A Henry

6. That pursuant to s147A and s147B of the Local Government Act 2002, Council is satisfied, in relation to the alcohol ban proposed in Te Puke in the draft Alcohol Control Bylaw 2022, that there is evidence that the area to which the bylaw is intended to apply has experienced a high level of crime and disorder, that can be shown to have been caused, or been made worse, by alcohol consumption in the area.

CARRIED

RESOLUTION PP22-2.15 – PART 7

Moved: Cr J Denyer

Seconded: Cr M Grainger

7. That pursuant to s147A and s147B of the Local Government Act 2002, Council is satisfied, in relation to the alcohol bans proposed in Katikati and Waihi Beach in the draft Alcohol Control Bylaw 2022, that a high level of crime and disorder (caused or made worse by alcohol consumption in the area concerned) is likely to arise in the area to which the bylaw is intended to apply, if the bylaw is not made.

CARRIED

RESOLUTION PP22-2.16 – PART 8

Moved: Cr G Dally

Seconded: Cr M Grainger

8. That pursuant to s147A and s147B of the Local Government Act 2002, Council is satisfied that the draft Alcohol Bylaw 2022 can be justified as a reasonable limitation on people's rights and freedoms, and that the draft bylaw is appropriate and proportionate, in light of the crime and disorder.

CARRIED

RESOLUTION PP22-2.17 – PART 9

Moved: Cr M Gray

Seconded: Cr M Dean

9. That pursuant to s155 of the Local Government Act 2002, Council confirms that a bylaw is the most appropriate way of addressing the perceived problems, the draft bylaw is the most appropriate form of bylaw, and that the draft bylaw does not give rise to any implications under the New Zealand Bill of Rights 1990.

CARRIED

RESOLUTION PP22-2.18 – PART 10

Moved: Cr A Henry

Seconded: Cr J Denyer

10. That the draft Alcohol Control Bylaw, as per attachment D of the agenda report, be recommended to Council for adoption and that it come into force on 6 May 2022.

CARRIED

RESOLUTION PP22-2.19 – PART 11

Moved: Cr G Dally

Seconded: Cr A Sole

11. That the non-regulatory actions, set out in paragraph 22 of the agenda report, also be progressed.

.CARRIED

RESOLUTION PP22-2.20 – PART 12

Moved: Cr A Henry

Seconded: Cr M Grainger

12. That the Policy Committee requests the Chief Executive Officer to direct staff to prepare a decision document as the formal response to submitters, in general accordance with the resolutions made in relation to this report, and recommends to Council that this is adopted, alongside the final Alcohol Control Bylaw.

CARRIED

9.2 REVIEW OF RATES RELIEF POLICIES

The Policy Analyst's report was taken as read.

RESOLUTION PP22-2.21

Moved: Cr D Thwaites

Seconded: Cr M Dean

1. That the Policy Analyst's report dated 10 March 2022 titled 'Review of Rates Relief Policies', be received.
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2. That the report relates to an issue that is considered to be of medium significance in terms of Council's Significance and Engagement Policy.
3. That the following ten rates relief policies be adopted for public consultation in accordance with sections 82, 109 and 110 of the Local Government Act 2002, alongside the draft Annual Plan 2022/2023, from 21 March to 21 April 2022.
(Click link to view document)
 - a. [Rates remission on Māori freehold land;](#)
 - b. [Discount for early payment of rates in current financial year;](#)
 - c. [Rates postponement for homeowners aged over 65 years;](#)
 - d. [Rates remission for covenanted land;](#)
 - e. [Rates remission for contiguous land;](#)
 - f. [Rates remission for land used for sport and games;](#)
 - g. [Rates remission for re-zoned land;](#)
 - h. [Rates remissions for natural disasters and emergencies;](#)
 - i. [Remission of rates penalties; and](#)
 - j. [Rates postponement for financial hardship.](#)

CARRIED

9.3 ADOPTION OF THE DRAFT POLICY ON COUNCIL MAINTENANCE OF PREVIOUSLY UNMAINTAINED ROADS FOR CONSULTATION

The Policy and Planning Manager's report was taken as read.

RESOLUTION PP22-2.22

Moved: Cr M Dean

Seconded: Cr J Denyer

1. That the Policy and Planning Manager's report dated 10 March 2022, titled 'Adoption of the draft Policy on Council Maintenance of Previously Unmaintained Roads for Consultation', be received.
 2. That the report relates to an issue considered to be of medium significance in terms of Council's Significance and Engagement Policy.
 3. That the Committee adopts the draft Policy on Council Maintenance of Previously Unmaintained Roads set out in Attachment One of the agenda report, for community consultation, in accordance with section 82 of the Local Government Act.
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4. That the Committee proposes the revocation of the Māori Roadways Policy 2012, Attachment Two of the agenda report, and notes this as part of the wider proposal for community consultation.

CARRIED

9.4 PROPOSED DRAFT KERBSIDE RUBBISH AND RECYCLING POLICY

The Senior Policy Analyst – Consultant’s report was taken as read. Staff responded to questions as follows:

- In terms of the capacity criterion, if Council wished to extend the service but the contractor did not intend to acquire more trucks, (for example), Council would consider the overall capacity in the network. Council had the ability to change the collection area, subtly, to build in capacity in some areas. There was a requirement in the contract to service extensions.
 - The uptake in the number of connections had been greater than was originally intended. Council would work with the Contractor to find a way to extend the service, as the extensions were consistent with the policy Council had put in place to reduce waste landfill, and it was considered the right thing to do.
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RESOLUTION PP22-2.23

Moved: Cr G Dally

Seconded: Cr A Henry

1. That the Senior Policy Analyst – Consultant’s report dated 10 March 2022, titled “Proposed Draft Kerbside Rubbish and Recycling Policy” be received.
2. That the report relates to an issue that is considered to be of medium significance in terms of Council’s Significance and Engagement Policy.
3. That the Policy Committee approves adoption of the Draft Kerbside Rubbish and Recycling Policy for community consultation, in accordance with section 82 of the Local Government Act 2002, and alongside the Annual Plan process.

CARRIED

10 INFORMATION FOR RECEIPT

Nil.

The meeting was declared closed at 10.00am.

Minutes confirmed as a true and correct record by Council on 6 April 2022.