

Mā tō tātou takiwā  
**For our District**

## **Policy Committee**

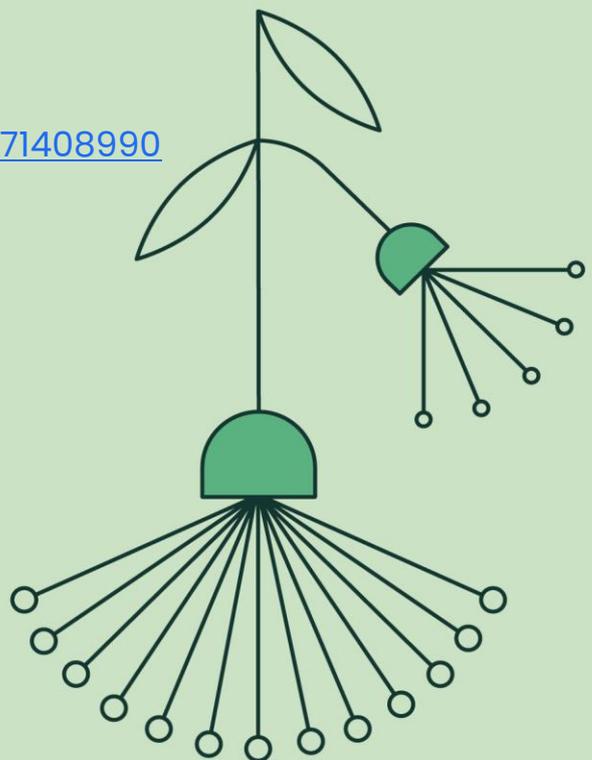
Komiti Kaupapa Here

PP22-2

Thursday, 10 March 2022, 9.30am

Via Zoom

<https://westernbay-govt-nz.zoom.us/j/85771408990>



# Policy Committee

## Membership:

<b>Chairperson</b>	Mayor Garry Webber
<b>Deputy Chairperson</b>	Cr Monique Gray
<b>Members</b>	Cr Grant Dally Cr Mark Dean Cr James Denyer Cr Murray Grainger Cr Anne Henry Cr Kevin Marsh Cr Margaret Murray-Benge Deputy Mayor John Scrimgeour Cr Allan Sole Cr Don Thwaites
<b>Quorum</b>	6
<b>Frequency</b>	Six weekly

## Role:

- To develop and review strategies, policies, plans and bylaws to advance the strategic direction of Council and its communities.
- To ensure an integrated approach to land development (including land for housing), land use and transportation to enable, support and shape sustainable, vibrant and safe communities.
- To ensure there is sufficient and appropriate housing supply and choice in existing and new urban areas to meet current and future needs.

## Scope:

- Development and review of bylaws in accordance with legislation including determination of the nature and extent of community engagement approaches to be employed.
- Development, review and approval of strategies and plans in accordance with legislation including determination of the nature and extent of community engagement approaches to be employed.
- Subject to compliance with legislation and the Long Term Plan, to resolve all matters of strategic policy outside of the Long Term Plan process which does not require, under the Local Government Act 2002, a resolution of Council.
- Development of District Plan changes up to the point of public notification under the Resource Management Act 1991.
- Development of the Future Development Strategy and urban settlement plan.
- Consider and approve changes to service delivery arrangements arising from service delivery reviews required under the Local Government Act 2002 (provided that where a service delivery proposal requires an amendment to the Long Term Plan, it shall thereafter be progressed by the Annual Plan and Long Term Plan Committee).

- To report to Council on financial implications of policies and recommend any changes or variations to allocated budgets.
- Listen to and receive the presentation of views by people and engage in spoken interaction with people pursuant to section 83(1)(d) of the Local Government Act 2002 in relation to any processes Council undertakes to consult on under the special consultative procedure as required by the Local Government Act 2002 or any other Act.
- Oversee the development of strategies relating to sub-regional parks and sub-regional community facilities for the enhancement of the social and cultural wellbeing of the Western Bay of Plenty District communities, for recommendation to Tauranga City Council and Western Bay of Plenty District Council.
- Develop the draft Statement of Intent for any Council Council-Controlled organisation (CCO) and review, assess and make recommendations to Council on any modifications to CCO or other entities' accountability documents (i.e. Letter of Expectation, Statement of Intent) or governance arrangements.
- Approve Council submissions to central government, councils and other organisations, including submissions on proposed plan changes or policy statements.
- Receive and make decisions and recommendations to Council and its Committees, as appropriate, on reports, recommendations and minutes of the following:
  - SmartGrowth Leadership Group
  - Regional Land Transport Committee
  - Any other Joint Committee, Forum or Working Group, as directed by Council.
- Receive and make decisions on, as appropriate, any matters of a policy or planning nature from the following:
  - Waihī Beach, Katikati, Ōmokoroa, Te Puke and Maketu Community Boards,
  - Maketu-Te Puke Ward Forum
  - Kaimai Community Ward Forum
  - Katikati- Waihī Beach Ward Forum

### Power to Act:

- To make all decisions necessary to fulfil the role and scope of the Committee subject to the limitations imposed.

### Power to Recommend:

- To Council and/or any Committee as it deems appropriate.

### Power to sub-delegate:

- The Committee may delegate any of its functions, duties or powers to a subcommittee, working group or other subordinate decision-making body subject to the restrictions within its delegations and provided that any such sub-delegation includes a statement of purpose and specification of task.

Notice is hereby given that a Policy Committee Meeting will be held  
via Zoom on:  
Thursday, 10 March 2022 at 9.30am

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**1 PRESENT****2 IN ATTENDANCE****3 APOLOGIES****4 CONSIDERATION OF LATE ITEMS****5 DECLARATIONS OF INTEREST**

Members are reminded of the need to be vigilant and to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest that they may have.

**6 PUBLIC EXCLUDED ITEMS****7 PUBLIC FORUM**

A period of up to 30 minutes is set aside for a public forum. Members of the public may attend to address the Board for up to five minutes on items that fall within the delegations of the Board provided the matters are not subject to legal proceedings, or to a process providing for the hearing of submissions. Speakers may be questioned through the Chairperson by members, but questions must be confined to obtaining information or clarification on matters raised by the speaker. The Chairperson has discretion in regard to time extensions.

Such presentations do not form part of the formal business of the meeting, a brief record will be kept of matters raised during any public forum section of the meeting with matters for action to be referred through the customer contact centre request system, while those requiring further investigation will be referred to the Chief Executive.

**8 PRESENTATIONS**

## 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

**File Number:** A4475144

**Author:** Matthew Leighton, Senior Policy Analyst

**Authoriser:** Rachael Davie, Group Manager Policy Planning And Regulatory Services

#### EXECUTIVE SUMMARY

1. 135 submissions to the Local Alcohol Policy and Alcohol Control Bylaw reviews were received and are presented to the Committee for consideration.
2. The Committee may consider further changes to the proposed Local Alcohol Policy and Alcohol Control Bylaw in light of the submissions received through the consultation period.
3. The paper has been broken down into three key elements:
  - (a) Local Alcohol Policy,
  - (b) Alcohol Control Bylaw,
  - (c) Non-regulatory measures.
4. A draft Provisional Local Alcohol Policy and draft Alcohol Control Bylaw are presented for adoption and public notification and recommendation to Council respectively.

#### RECOMMENDATION

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.
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, in considering the submissions received and the options presented through Attachment B of the agenda report, the following options for the Provisional Local Alcohol Policy are chosen:
  - a. Off-licence hours: Option B – Final sales time to be 9.00pm.

- b. Limit on numbers 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.
  - c. Location of the limit on new bottle stores: Option A – Limit applies in Te Puke/Maketu Ward only.
  - d. Limit on new bottle stores or expand type: Option A – Limit on new bottle stores only.
  - e. Off-licence conditions / discretionary conditions: Option F – Do not introduce new conditions/discretionary conditions.
  - f. On licences hours: Option A – Retain the current Local Alcohol Policy (LAP) provisions.
  - g. One way door policy: Option C – Delete the one way door provision.
  - h. Club licences: Option A – Create a separate section for Club licences but retain the current LAP provisions.
  - i. Club licence hours: Option A – Retain current hours 9.00am-1.00am.
  - j. Special licences: Option A – Retain the current LAP provisions.
4. That the provisional Local Alcohol Policy be adopted, as per attachment C of the agenda report, and publicly notified.
  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.
  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.
  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.
  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.

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.
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.
11. That the non-regulatory actions, set out in paragraph 22 of the agenda report, also be progressed.
12. That the Policy Committee requests that the Chief Executive Officer directs 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.

## BACKGROUND

5. Council consulted on the Draft Local Alcohol Policy and the Draft Alcohol Control Bylaw between 5 November and 6 December 2021. 135 submissions were received, with eight submitters also choosing to speak to their submissions on 14 December 2021.
6. Submitters raised points in support of their positions and matters they wished Council to consider in making its decision. The key topics and commentary are provided below.
7. Attachment A provides the full copy of submissions.
8. A number of options were suggested, each with their own merits and limitations. These are presented in Attachment B for the Committee's consideration.

## LOCAL ALCOHOL POLICY

9. A mix of individuals, businesses and health agencies submitted on the Policy.
10. Key themes included:
  - (a) Further restriction of off-licence hours
  - (b) Extend the limit on off-licences
  - (c) Introduce discretionary conditions for off licences
  - (d) On licence matters
  - (e) Club licence matters
  - (f) Minor corrections and format edits
  - (g) Non policy matters – District Licencing Committee membership, legislative change, education, enforcement matters.

11. Council may decide to make any changes to reflect the information and views presented through the submissions process. The options and submissions received are discussed in Attachment B.
12. The highlighted options relate to the content of the draft Provisional Policy as per Attachment C.
13. There are only two changes proposed from the draft to the draft Provisional LAP.
  - (a) The removal of one-way door provisions for on- licences and club licences.
  - (b) Additional text that would provide for the new licences for bottle stores in the Te Puke-Maketu ward area, only where this is due to the sale of an existing premise or due to relocation to a nearby site.
14. The draft Provisional Policy (Attachment C) is presented to the committee for public notification, as per section 80 of the Sale and Supply of Alcohol Act 2012.
15. Following adoption of the provisional LAP, there is the opportunity for the Police, Medical Officer of Health and those that submitted on the draft policy to appeal against an element of the provisional LAP.
16. Appeals may only be on the grounds that it is 'unreasonable in the light of the object of the Act' and appeals are heard by the Alcohol Regulatory and Licensing Authority (ARLA).

### **ALCOHOL CONTROL BYLAW**

17. Council may decide to make any changes to the Alcohol Control Bylaw to reflect views presented through the submissions process. The options and submissions received are discussed in Attachment B.
18. The highlighted options relate to the content of the draft Bylaw as per Attachment D. No changes to the version publicly consulted have been included.
19. Following Committee recommendation, the draft Bylaw will be presented to Council for adoption on 6 April. It would then become operational one month later on 6 May, to allow time for signage to be prepared and placed.

### **NON-REGULATORY MATTERS**

20. Several submitters (21) suggested Council undertake non-regulatory actions. These either suggested new actions or requested Council go further in specific matters.
21. Alongside adopting the draft LAP and draft Bylaw for consultation (Policy Committee Meeting, 19 October 2021), the Policy Committee also resolved that alcohol harm be further considered through other non-regulatory processes.
22. Further to this, several additional actions are presented to the committee for consideration:

- (a) Council seeks to increase public awareness of new alcohol licence applications and renewal applications for on-licences, off-licences and club licences.
- (b) Council seeks a wide diversity of candidates for the District Licencing Committee and consider who is included on the appointment panel.
- (c) Council outline submitters concerns with Police and seek greater Police - Council collaboration.
- (d) Council will respond to future Central Government-led work on Alcohol reform.
- (e) Council will consider alcohol harm as part of the current Community Safety Policy Review.

These additional non-regulatory actions will help deliver on the Policy and Bylaw purposes and look to minimise alcohol related harm.

### NEXT STEPS

- 23. Once adopted by the Policy Committee, the LAP will then become provisional for one month, during which time it may be appealed. This a prescribed legislative process. If there are no appeals, the policy will become operative.
- 24. The Bylaw will need to be adopted by Council on 6 April 2022 and will then become operational one month later, on 6 May 2022, to allow time for signage to be prepared and placed.

### SIGNIFICANCE AND ENGAGEMENT

- 25. The Local Government Act 2002 requires a formal assessment of the significance of matters and decision in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.
- 26. The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.
- 27. In terms of the Significance and Engagement Policy this decision is considered to be of medium significance because there is clear community interest and divergent views (as evidenced by the submissions received). The decision may be reversed at the time of next review or may be reviewed earlier should Council direct that in the future.

### ENGAGEMENT, CONSULTATION AND COMMUNICATION

- 28. Engagement with key stakeholders and the wider community has been an important part of the review and is also legislatively required.

- 29. Pre-engagement was undertaken with key, legislatively defined, stakeholders (Police, Medical Officer of Health, Alcohol Licencing Inspector) and feedback on alcohol in the community was sought from a range of stakeholders including Community Boards, Community Patrols and Hauora.
- 30. The Special Consultative Procedure (SCP) is required to make, amend or revoke bylaws and to review the Local Alcohol Policy. Formal community submissions have been sort, alongside targeted engagement with stakeholders and key parties.

Interested/Affect ed Parties	Completed/Planned Engagement/Consultation/Communication	
	Planned	Comple t
Name of interested parties/groups		
Submitters	<p>The Provisional Local Alcohol Policy must be publicly notified as per the Sale and Supply of Alcohol Regulations 2013.</p> <p>Following adoption of the final Bylaw and the Provisional Local Alcohol Policy, a decision story will be made available to submitters.</p>	
Council Alcohol Licensing Inspector, Police and DHB	Key legislatively identified stakeholders engaged with as part of the research and options development stage and input sought as part of the formal engagement process with targeted communications.	
All licenced premises in the District, Community Boards, Community Patrols, Citizens Advice Bureau, Tauranga Budget Advisory Service, Empowerment NZ, Appellants to the previous LAP.	Identified stakeholders have been engaged with as part of the research and options development stage. Further input sought as part of the formal engagement process with targeted communications.	
Tangata Whenua via Hauora	Identified stakeholders have been engaged with as part of the research and options development stage	

	and input sought as part of the formal engagement process with targeted communications.		
General Public	Information from other engagement processes has been used in the research and options development stage. Public feedback was sought as part of the formal engagement process in a range of formats.		

### ISSUES AND OPTIONS ASSESSMENT

31. There are a number of potential options that address the overall issue and respond to the object of the Sale and Supply of Alcohol Act 2012, meet the Policy goals and reflect submitters points.
32. The Policy and the Bylaw are only one set of tools that should be considered if we are to look at the issue holistically.
33. The options relating to the content of the Provisional Local Alcohol Policy and Draft Alcohol Control Bylaw are set out in Attachment B.
34. The Committee is also recommended to resolve to adopt the Provisional Local Alcohol Policy (Attachment C) and to recommend that Council adopt the Alcohol Control Bylaw (Attachment D). The options regarding these decisions are given below.

<b>Option A</b> <b>That the Provisional Local Alcohol Policy be adopted and publicly notified.</b>	
<b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b> <ul style="list-style-type: none"> <li>• <b>Economic</b></li> <li>• <b>Social</b></li> <li>• <b>Cultural</b></li> <li>• <b>Environmental</b></li> </ul>	The Provisional LAP (as per Attachment C) takes into consideration the submissions received and also reflects the research report and stakeholder input.  The Provisional LAP will be publicly notified and may be appealed.
<b>Costs (including present and future costs, direct, indirect and contingent costs).</b>	The project costs of the review are met within current operational funding. Specific provision has been made for legal costs arising from any appeal, based on the costs incurred through the 2015 appeals process.
<b>Option B</b> <b>That the Provisional Local Alcohol Policy is not adopted.</b>	

<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• Economic</li> <li>• Social</li> <li>• Cultural</li> <li>• Environmental</li> </ul>	<p>The current LAP would remain in force. This would not necessarily align with the submissions received or reflects the research report and stakeholder input.</p> <p>The review could be deferred, more information prepared, and items reconsidered.</p> <p>Rework may incur increased costs.</p>
<p><b>Costs (including present and future costs, direct, indirect and contingent costs).</b></p>	<p>The project costs may not be incurred in the short term but will be required to meet our legislative requirements.</p> <p>Further cost maybe incurred if an extended delay is introduced, and information requires updating.</p>

<p><b>Option C</b>  <b>That the draft Alcohol Control Bylaw be recommended to Council for adoption.</b></p>	
<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• Economic</li> <li>• Social</li> <li>• Cultural</li> <li>• Environmental</li> </ul>	<p>The Draft Alcohol Control Bylaw (as per Attachment D) takes into consideration the submissions received and also reflects the evidence and stakeholder input during it's development.</p>
<p><b>Costs (including present and future costs, direct, indirect and contingent costs).</b></p>	<p>The project costs of the review are met within current operational funding.</p>
<p><b>Option D</b>  <b>That the draft Alcohol Control Bylaw is not recommended to Council for adoption.</b></p>	
<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• Economic</li> <li>• Social</li> <li>• Cultural</li> <li>• Environmental</li> </ul>	<p>The current Alcohol Control Bylaw would remain in force. This would not necessarily align with the submissions received or reflect the evidence and stakeholder input.</p> <p>The review could be deferred, more information prepared, and items reconsidered.</p> <p>Rework may incur increased costs.</p>

<b>Costs (including present and future costs, direct, indirect and contingent costs).</b>	Further cost maybe incurred if an extended delay is introduced, and information requires updating.
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### STATUTORY COMPLIANCE

35. The Sale and Supply of Alcohol Act 2012 empowers territorial authorities to develop LAPs. Sections 75–97 of the Sale and Sale and Supply of Alcohol Act 2012 set out the requirements and process regarding development or review of LAPs.
36. The requirements for making bylaws for alcohol control purposes are set out in the Local Government Act 2002, principally section 147, 147A and 147B.
37. Under s155 of the LGA, there are considerations that must be taken before making a bylaw, regarding appropriate form and any implications under the New Zealand Bill of Rights Act 1990. These have been discussed in the Policy Committee Report dated 19 October 2021. The draft Bylaw is considered to be appropriate. The Bylaw is not considered to give rise to any implications under the New Zealand Bill of Rights Act 1990. The amendments to the Bylaw are consistent with Council’s other policies, strategies and plans.
38. Specific resolutions have been included and the recommendations in this report allow Council to meet these legislative requirements.

### FUNDING/BUDGET IMPLICATIONS

39. The project costs of the reviews are met within current operational funding.
40. Specific provision has been made for legal costs arising from any appeal to the Provisional LAP, based on the costs incurred through the 2015 appeals process.
41. The cost of installing Alcohol Control Area signage is met within current operational budgets.

### ATTACHMENTS

1. **Alcohol Deliberations – Full Submission Pack**  
2. **Discussion of options for consideration as a result of submissions**  
3. **Draft Provisional Local Alcohol Policy**  
4. **Draft Alcohol Control Bylaw**  



























































































































































































































































































































































































































































## 9.2 REVIEW OF RATES RELIEF POLICIES

**File Number:** A4476883

**Author:** Tom Rutherford, Policy Analyst

**Authoriser:** Rachael Davie, Group Manager Policy Planning And Regulatory Services

### EXECUTIVE SUMMARY

1. The Committee is asked to consider the adoption of ten of Council's rates relief policies for public consultation.

### RECOMMENDATION

1. That the Policy Analyst's report dated 10 March 2022 titled 'Review of Rates Relief Policies', 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 following ten rates relief policies be adopted for public consultation in accordance with section 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.](#)

### BACKGROUND

2. The Local Government Act 2002 gives local authorities the powers to set rates postponement and remission policies, which is reflective of the Local Government Act 2002 objective to promote decision making that reflects local preferences and circumstances.

3. Council has a statutory requirement to review rates relief policies at least once every six years, as per section 109 and 110 of the Local Government Act 2002, using a consultation process that gives effect to the requirements of section 82 of the Local Government Act 2002.
4. Council offers ratepayers the opportunity for both rate remission and postponement in accordance with its current policies. Some of these policies are now due for review. The previous review of these policies was undertaken as part of the development of the Annual Plan 2016/2017. Council also reviewed its Multiple Pan Wastewater Remission Policy and Water Rates Remission Policy alongside the Long Term Plan in 2021. Therefore, these two policies do not require review at this time.
5. Rates postponement policies allow ratepayers to defer paying their rates, with the debt being secured against the equity in their property. Postponement can be applied for the remainder of the ratepayer's life, where they have sufficient equity in their home, although the applicant can repay all or part of the postponed rates at any time.
6. Rates remission policies allow ratepayers to reduce or cease rate payments in accordance with the specific policy criteria, with no requirement to repay the amount remitted.
7. The Department of Internal Affairs (Te Tari Taiwhenua) also offers a rates rebate scheme nationwide based on strict criteria which some of our ratepayers are eligible for and receive. Council acts as a facilitator in this space.

### KEY CHANGES

8. Recent changes to the Local Government Act 2002 and the Local Government (Rating) Act 2002, through the Local Government (Rating of Whenua Māori) Amendment Act 2021, require councils to review their policies on the rating of Māori freehold land before 1 July 2022. In particular, Council's policy must support the principles in the preamble to Te Ture Whenua Māori Act 1993. The principles acknowledge that, as land is a taonga tuku iho (treasure passed down) of special significance for Māori, Council needs to provide mechanisms that enable the development of Māori freehold land for the benefit of their owners, their whānau and hapū.
9. Council's policy on rates remission on Māori freehold land needs to be reviewed to align the policy with the changes enacted under the Local Government (Rating of Whenua Māori) Amendment Act 2021.
10. These are the key changes to Council's policy that are required by the Local Government (Rating of Whenua Māori) Amendment Act 2021:
  - a) Unused Māori Freehold Land will now be non-rateable (except for any service rates i.e., for water supply and use).
  - b) Rates that the CEO considers not reasonably recoverable must be written off.

- c) Upon request, separate rating areas can be created on Māori Freehold Land and rated separately if there are dwellings.
11. Other changes that have been included into the draft policy:
    - a) Remission for Māori Freehold Land under development considered on a case-by-case basis.
    - b) Māori Freehold Land valued to exclude any potential subdivision or development potential that is unlikely to happen under Māori ownership.
  12. Following their previous extensive review through the Annual Plan 2016/2017, the remainder of the current rates relief policies are still fit for purpose and are in line with current legislative requirements. The recommendation is that these policies remain unchanged for consultation.

### SIGNIFICANCE AND ENGAGEMENT

13. The Local Government Act 2002 requires a formal assessment of the significance of matters and decision in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.
14. The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.
15. In terms of the Significance and Engagement Policy this decision is considered to be of medium significance because of the nature and scope of the review, particularly because the majority of the changes made to Council's policy on rates remission on Māori freehold land are as a result of the Local Government (Rating of Whenua Māori) Amendment Act 2021.

### ENGAGEMENT, CONSULTATION AND COMMUNICATION

16. Given the nature and scope of the proposed changes to the rates relief policies, and the assessment of medium significance under the Significance and Engagement Policy, it's recommended that consultation should follow the principles of consultation under section 82 of the Local Government Act 2002.
17. Consultation is proposed from Monday 21 March to Thursday 21 April 2022. Consultation will be conducted alongside the draft Annual Plan. It is proposed to engage with the community through media releases and feedback via Council's Have Your Say website.
18. Staff have discussed the rates relief policies, particularly the proposed changes to the rates remission on Māori freehold land policy with staff from Tauranga City Council and Bay of Plenty Regional Council to reduce inconsistency in approach to the rating of Māori freehold land.

19. Staff discussed with the two tangata whenua forums, Te Kāhui Mana Whenua o Tauranga Moana and Te Ihu o Te Waka o Te Arawa, in early January to discuss the proposed changes to the Rates Remission on Māori Freehold Land Policy. In general, both forums were supportive of the proposed changes to the policy. Staff will continue to engage with the Tangata Whenua Forums, including a planned workshop in the consultation period to assist with any submissions.

### ISSUES AND OPTIONS ASSESSMENT

20. There are two options for consideration, the advantages and disadvantages are outlined briefly below.

<b>Option A</b>	
<b>That the Committee adopts the ten rates relief policies for consultation.</b>	
<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• <b>Economic</b></li> <li>• <b>Social</b></li> <li>• <b>Cultural</b></li> <li>• <b>Environmental</b></li> </ul>	<p><u>Advantages</u></p> <ul style="list-style-type: none"> <li>• Council will be meeting its requirements, under section 109 and 110 of the Local Government Act 2002, to review rates remission and rates postponement policies every 6 years.</li> <li>• This will ensure that Council is complying with legislation relating to its policy on rates remission on Māori freehold, required by 1 July 2022.</li> <li>• The community can provide feedback on the rates relief policies and Council may reconsider its position on any matters raised.</li> </ul> <p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> <li>• No significant disadvantages, given the nature of the proposed changes.</li> </ul>
<p><b>Costs (including present and future costs, direct, indirect, and contingent costs).</b></p>	<ul style="list-style-type: none"> <li>• Staff time will be required to deal with queries from the community about the proposed changes to the rates relief policies and to progress the subsequent stages of the review. These costs can be managed within existing staffing and budgets.</li> </ul>
<b>Option B</b>	
<b>That the Committee <u>does not</u> adopt the ten rates relief policies for consultation.</b>	

<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• <b>Economic</b></li> <li>• <b>Social</b></li> <li>• <b>Cultural</b></li> <li>• <b>Environmental</b></li> </ul>	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> <li>• Consultation costs will be delayed.</li> </ul> <p><u>Disadvantages</u></p> <ul style="list-style-type: none"> <li>• Council will not be meeting its requirements, under section 109 and 110 of the Local Government Act 2002, to review rates remission and rates postponement policies every 6 years.</li> <li>• Council's policy on rates remission on Māori freehold land will not be reviewed before 1 July 2022, as required by the Local Government (Rating of Whenua Māori) Amendment Act 2021.</li> </ul>
<p><b>Costs (including present and future costs, direct, indirect, and contingent costs).</b></p>	<ul style="list-style-type: none"> <li>• If the review of Council's rate relief policies is delayed the Committee may need to revisit issues it has already considered and more staff time may be required.</li> </ul>

### STATUTORY COMPLIANCE

21. The Local Government Act 2002 gives local authorities the powers to set rates postponement and remission policies, which is reflective of the Local Government Act 2002 objective to promote decision making that reflects local preferences and circumstances.
22. Section 109 of the Local Government Act 2002 states that a policy adopted under section 102(3)(a) must state –
  - (a) The objectives sought to be achieved by the remission of rates; and
  - (b) The conditions and criteria to be met in order for rates to be remitted.
23. Section 109 of the Local Government Act 2002 states that if a policy is adopted under section 102(3)(a) the policy –
  - (a) Must be reviewed at least once every 6 years using a consultation process that gives effect to the requirements of section 82.
24. Section 110 of the Local Government Act 2002 states that a policy adopted under section 102(3)(b) must state –
  - (a) The objectives sought to be achieved by a postponement of the requirement to pay rates; and

- (b) The conditions and criteria to be met in order for the requirement to pay rates to be postponed.
25. A policy on the remission and postponement of rates on Māori freehold land is a requirement of all councils under section 102(1) of the Local Government Act 2002. The policy must include the objectives sought by remission and the criteria in order for rates to be remitted. This is in addition to the recent requirements noted in the above key changes section that policies support the principles contained within the Preamble to the Te Ture Whenua Māori Act 1993.

### **FUNDING/BUDGET IMPLICATIONS**

26. No adverse funding/budget impacts are expected to arise as a result of the proposed changes to the policies. The review can be completed within existing budgets and resourcing.

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

**File Number:** A4486310

**Author:** Emily Watton, Policy and Planning Manager

**Authoriser:** Rachael Davie, Group Manager Policy Planning And Regulatory Services

#### EXECUTIVE SUMMARY

1. The purpose of this report is to present the draft Policy on Council Maintenance of Previously Unformed Roads for the Committee to consider adopting for consultation. The Committee is asked to consider proposing the revocation of the Māori Roadways Policy.
2. Consultation is intended to be undertaken in conjunction with Council's draft Seal Extension Prioritisation Policy, which was adopted in December 2021.

#### RECOMMENDATION

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 for community consultation, in accordance with section 82 of the Local Government Act.
4. That the Committee proposes the revocation of the Māori Roadways Policy 2012 (Attachment Two), and notes this as part of the wider proposal for community consultation.

#### BACKGROUND

3. Through its deliberations on the Long Term Plan (LTP) 2021-31, Council increased its annual budget for seal extensions from \$1 million per year to \$2 million per year for the 10 year period of the plan. This increased budget means that more roads can be sealed. As part of its LTP decisions, Council committed to reviewing its Seal Extensions Policy to ensure the criteria for prioritising the roads to be sealed is fit-for-purpose.

4. Following review of the Seal Extensions Policy, the Policy Committee adopted its proposed Seal Extension Prioritisation Policy at its meeting on 9 December 2021, with the intention that it be released for community consultation alongside the Annual Plan 2022/23. The Committee also requested a review of the Māori Roadways Policy to be undertaken, given that the proposed Seal Extension Prioritisation Policy will enable Māori Roadways to be considered for seal extension like any other public road. This means the proposed policy would be inconsistent with the operative Māori Roadways Policy, in terms of the current requirement for a Māori Roadway to be vested with Council in order to receive upgrade works.
5. Staff were requested to undertake pre-engagement with the Tangata Whenua forums (Te Ihu o Te Waka o Te Arawa and Te Kahui Mana Whenua o Tauranga Moana) to seek early feedback on the policy review. This has been completed and feedback has been incorporated in the proposed policy approach for the Committee's consideration. The key points of feedback include:
  - Support for the removal of the requirement for a Māori Roadway to be vested in order to receive upgrade works;
  - Clarity sought for when Council would maintain Māori Roadways in the future, that are not currently maintained by Council;
  - Consideration given to access to significant sites, like urupā; and
  - Support for an approach consistent with maintenance and upgrades of public roads.
6. A subsequent workshop in mid-late February with each of Te Ihu o Te Waka o Te Arawa and Te Kahui Mana Whenua o Tauranga Moana on the draft policies signalled general support for the proposed policy approach.

## MĀORI ROADWAYS

7. Council's operative Māori Roadways Policy was last reviewed in 2012 and sets out Council's requirements for a Māori Roadway to be maintained or improved. At the moment, upgrade works (like road sealing) will only be undertaken if the road is vested with Council. Maintenance of unsealed Māori Roadways can occur if a range of conditions set out in the policy are satisfied.
8. The District includes 96 Māori roadways (total approximately 80km) laid out in accordance with section 316 of the Te Ture Whenua Māori Act. These private roads intersect with (but do not form part of) the public road network. Approximately 25 percent of Māori roadways have been formed to vehicle access standards, and 13 roadways (total 4.6km) have been maintained by Council under agreements with the owners since 2007.
9. Māori Roadways have a specific legal status and definition that is different from a private road or a public road. The Māori Land Court has the power to define or limit

who can use a Māori roadway and define or restrict the rights of the users as it sees fit. Any restrictions would be set out in an order of the Court. Unless the Māori Land Court has ordered otherwise:

- All people have the right to use a Māori roadway as if it was a public road.
  - Anyone with land adjoining a Māori roadway can use it for access.
10. Under the operative policy, the requirement to vest land has been a barrier to some Māori Roadways being sealed. Given the connection to whenua (land), as well as the long and well documented loss of land from Māori ownership, it is understandable why owners of a Māori roadway would not wish to vest land in Council but to retain their ownership. However, given that anyone has the right to use a Māori roadway as if it a public road (where there are no orders of exclusive use), there is a case for the roadway to be treated as if it were a public road in terms of maintenance and improvements.
11. Under section 22 of the Land Transport Management Act, activities relating to Māori roadways may be eligible for funding from the National Land Transport Fund if those activities are included in a Regional Land Transport Plan. The Bay of Plenty Regional Land Transport Plan 2021/31 recognises that allocation of land transport funding to Māori roadways will contribute to the Plan's long-term objectives by ensuring that Māori communities have access to a transport network that is fit for purpose and provides them with a range of travel choices.

### PROPOSED POLICY APPROACH

12. The proposed approach has taken account of this feedback, staff advice and also considered the existing policies that Council holds in this space.
13. It is considered that the approach below provides for equitable outcomes in terms of when Council would upgrade or maintain a roadway (whether Māori Roadway or public road). The proposed policy (set out in Attachment One) has been prepared on this basis for the Committee's consideration.

Sealing of Māori Roadways	Continuing to maintain an existing unsealed Māori Roadway, with agreement in place between Council and Māori landowners	Considering when Council would commence maintenance of a currently unformed Māori Roadway
Seal Extension Prioritisation Policy applies. Proposed key assessment criteria are dust	Maintained to the level of service applied to public roads in the same maintenance group category. Conditions to be	Policy for Council Maintenance of Previously Unmaintained Paper Roads criteria (as amended) would apply.

exposure and traffic volumes.	satisfied including owner consent.	This would mean the same approach is applied as is for unformed public roads.
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14. Based on that approach, what is proposed is:

- To broaden the scope of the Council Maintenance of Previously Unmaintained Paper Roads so it doesn't just apply to public roads but Māori Roadways too.
- For the purposes of the policy, "road" includes public road and Māori Roadways (and specifically excludes private roads).
- Add urupā to the definition of "community facility"
- Consolidate other relevant content from the existing Māori Roadways Policy into the proposed Policy on Council Maintenance of Previously Unmaintained Roads.
- To revoke the Māori Roadways Policy
- To release the draft Seal Extension Prioritisation Policy and updated Policy on Council Maintenance of Previously Unmaintained Roads for consultation, and proposed revocation of the Māori Roadways Policy as part of the same process.

**SIGNIFICANCE AND ENGAGEMENT**

15. The Local Government Act 2002 requires a formal assessment of the significance of matters and decision in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.
16. The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.
17. In terms of the Significance and Engagement Policy this decision is considered to be of **medium** significance because of the likely level of community interest in the proposed policy changes and the likely impact on those living on roads eligible for maintenance and/or upgrades.

**ENGAGEMENT, CONSULTATION AND COMMUNICATION**

18. Consultation is intended to be in accordance with section 82 of the Local Government Act 2002, and as set out below:

<b>Interested/Affected Parties</b>	<b>Planned Consultation</b>		
Tangata Whenua	Notification of consultation to mandated hapū representatives, and a subsequent workshop with Tangata Whenua forums during consultation period (including any required support given to prepare submissions).		
General Public	Access through Have Your Say site. Media releases to promote consultation period.		

### ISSUES AND OPTIONS ASSESSMENT

19. There are two primary options for the Committee to consider, as set out below:

<b>Option A</b> <b>Adopt the draft policy on Council Maintenance of Previously Unformed Roads for consultation</b>	
<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• <b>Economic</b></li> <li>• <b>Social</b></li> <li>• <b>Cultural</b></li> <li>• <b>Environmental</b></li> </ul>	<p>Advantages:</p> <ul style="list-style-type: none"> <li>• Gives effect to key feedback points from the Tangata Whenua forums</li> <li>• Provides an opportunity for interested people to give feedback on the proposed policy approach</li> <li>• Enables savings are in consultation costs as part of a wider and concurrent process (Annual Plan)</li> <li>• Provides clarity on when Māori roadways will be eligible for maintenance.</li> </ul>
<p><b>Costs (including present and future costs, direct, indirect and contingent costs).</b></p>	<p>Policy sets criteria as to when this would commence. Existing road maintenance budgets are sufficient to manage anticipated increase.</p>
<b>Option B</b> <b>Do not adopt the draft policy on Council Maintenance of Previously Unformed Roads for consultation</b>	

<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• <b>Economic</b></li> <li>• <b>Social</b></li> <li>• <b>Cultural</b></li> <li>• <b>Environmental</b></li> </ul>	<p>Disadvantages:</p> <ul style="list-style-type: none"> <li>• No opportunity for interested people to give feedback</li> <li>• Existing Māori Roadways Policy will remain operative, which will likely be a barrier to maintenance and improvement works being progressed.</li> </ul>
<p><b>Costs (including present and future costs, direct, indirect and contingent costs).</b></p>	<p>Māori Roadways will only be eligible for improvements if they are vested with Council.</p>

### STATUTORY COMPLIANCE

20. The recommendations of this report enable Council to comply with its obligations under the Local Government Act 2002.
21. The recommendation to undertake community consultation on the proposed policy approach enables interested people to share their views. Council can consider community views in its deliberations on the final policy.
22. Policy development is the responsibility of the Policy Committee, which has delegated authority to hear submissions to the draft policy and adopt or not adopt accordingly.

### FUNDING/BUDGET IMPLICATIONS

<b>Budget Funding Information</b>	<b>Relevant Detail</b>
Policy consultation costs	Can be met through existing operational budgets.
Roading maintenance costs for roads that are currently not maintained by Council	Policy sets criteria as to when this would commence. Existing road maintenance budgets are sufficient to manage anticipated increase.

**ATTACHMENTS**

1. **2022-03-10 Draft Policy for Council Maintenance of Previously Unmaintained Roads - PDF**  
2. **Maori Roadways Policy 2012 PDF**  

















#### 9.4 PROPOSED DRAFT KERBSIDE RUBBISH AND RECYCLING POLICY

**File Number:** A4487163

**Author:** Cheryl Steiner, Senior Policy Analyst – Consultant

**Authoriser:** Rachael Davie, Group Manager Policy Planning And Regulatory Services

#### EXECUTIVE SUMMARY

1. The Committee is asked to approve the Draft Kerbside Rubbish and Recycling Policy for community consultation. The policy provides guidance on the extension of kerbside services across the District.

#### RECOMMENDATION

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.

#### BACKGROUND

2. Over the last few years Council has focused on investigating alternative recycling and rubbish collection models as an action from the 2017 Waste Management and Minimisation Plan review.
3. Council consulted on options for alternative rubbish and recycling collection through the Annual Plan 2019/20 and Long Term Plan Amendment Consultation Document. Of the 552 submissions, 351 supported the preferred option for a Council-contracted service to start in 2021 and a decision was made to provide this service across approximately 80% of the District.
4. The service commenced in July 2021 and provides:
  - (a) A kerbside collection for glass and recyclables funded by a targeted rate on those households serviced.
  - (b) A kerbside collection for food scraps for urban areas only funded by a targeted rate on those households serviced.

- (c) A pay per pick-up kerbside rubbish collection.
5. Council currently services 18,073 properties consisting of 11,769 full service and 3,304 partial service.
  6. Council has indicated that it will remain responsive to any future development in the District and look at extending the services where viable and cost effective. A policy is considered the best way to do this, as it will provide clear and consistent guidance for both Council and the community. Development of this policy will enable Council to:
    - (a) Continue to recognise the significant role of kerbside services in achieving social and environmental outcomes.
    - (b) Continue to extend Council's kerbside rubbish and recycling services where this is considered practical and cost effective.
    - (c) Provide a clear pathway to respond to requests for the extension of kerbside services, and certainty on the conditions required to assess viability of these requests.
  7. The policy provides guidance on four key matters:
    - (a) Extension of full or partial kerbside services by Council
    - (b) Extension of full or partial kerbside services requested by the community
    - (c) Extension of kerbside services to commercial property.
    - (d) Requests for additional bins.
  8. The potential to provide a greenwaste collection service will be considered in the 2022/2023 review of the Waste Management and Minimisation Plan.

### **SIGNIFICANCE AND ENGAGEMENT**

9. The Local Government Act 2002 requires a formal assessment of the significance of matters and decision in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions. The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.
10. In terms of the Significance and Engagement Policy this decision is considered to be of medium significance because of the anticipated level of community interest in the ongoing role out of these services across the district.

### **ENGAGEMENT, CONSULTATION AND COMMUNICATION**

11. Consultation on the draft Policy will occur as part of the draft 2022/2023 Annual Plan process, and in accordance with section 82 of the Local Government Act 2002.

12. In addition, key stakeholders that will be directly contacted for feedback include:
- (a) EnviroWaste

**ISSUES AND OPTIONS ASSESSMENT**

13. There are two primary options for consideration by the Committee, set out below:

<b>Option A Adopt draft policy for consultation</b>	
<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• <b>Economic</b></li> <li>• <b>Social</b></li> <li>• <b>Cultural</b></li> <li>• <b>Environmental</b></li> </ul>	<p><b>Advantages:</b></p> <ul style="list-style-type: none"> <li>• Continue to recognise the significant role of kerbside services in achieving social and environmental outcomes.</li> <li>• Provide certainty and transparency regarding Council’s approach to the extension of kerbside services.</li> <li>• Provide the opportunity for community feedback on the draft policy, and consideration of community views prior to a final policy being adopted.</li> </ul> <p><b>Disadvantages:</b></p> <ul style="list-style-type: none"> <li>• Some members of the community may not support the overall approach Council has taken to the provision of kerbside rubbish and recycling collection services.</li> </ul>
<p><b>Costs (including present and future costs, direct, indirect and contingent costs).</b></p>	<p>Some implementation costs are already funded through the Long Term Plan 2021-2031 and any additional funding required to cater to demand will be considered through future Annual Plan and Long Term Plan processes.</p>
<b>Option B Do not adopt draft policy for consultation</b>	

<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• <b>Economic</b></li> <li>• <b>Social</b></li> <li>• <b>Cultural</b></li> <li>• <b>Environmental</b></li> </ul>	<p><b>Advantages:</b></p> <ul style="list-style-type: none"> <li>• None identified.</li> </ul> <p><b>Disadvantages:</b></p> <ul style="list-style-type: none"> <li>• No clear pathway to respond to requests for the extension of kerbside services, or certainty on the conditions required to assess viability of these requests.</li> <li>• Requests will still be received, and Council will still continue to extend services but without any clear policy framework in place to guide this.</li> </ul>
<p><b>Costs (including present and future costs, direct, indirect and contingent costs).</b></p>	<p>Some implementation costs are already funded through the Long Term Plan 2021-2031 and any additional funding required to cater to demand will be considered through future Annual Plan and Long Term Plan processes.</p>

### STATUTORY COMPLIANCE

14. The Draft Kerbside Rubbish and Recycling Policy is prepared under the Local Government Act 2002.
15. Policy development is the responsibility of the Policy Committee, which has delegated authority to hear submissions to the draft policy and adopt or not adopt accordingly.

### FUNDING/BUDGET IMPLICATIONS

16. Implementation funding is subject to Council's Annual Plan and Long Term Plan budget processes.

### ATTACHMENTS

1. **Draft Kerbside Rubbish and Recycling Policy 2022**  







10 INFORMATION FOR RECEIPT