

# Western Bay of Plenty District Council

**Minutes of Meeting No. PP21 of the Policy Committee  
held on 27 June 2019 in the Council Chamber, Barks Corner, Tauranga,  
commencing at 9.30am**

## **Present**

Councillor M Williams (Chairperson), Councillors G Dally, M Dean, M Lally, P Mackay, K Marsh, D Marshall, M Murray-Benge, J Palmer, J Scrimgeour, D Thwaites and His Worship the Mayor G J Webber

## **In Attendance**

R Davie (Group Manager Policy, Planning and Regulatory Services), E Watton (Policy and Planning Manager), P Martelli (Resource Management Manager), M Leighton (Senior Policy Analyst), S Stewart (Policy Analyst), A Curtis (Compliance and Monitoring Manager), L Balvert (Senior Communications Specialist), R Woodward (Communications Advisor) and M Parnell (Governance Advisor)

## **Community Boards**

M Grainger (Chairperson, Omokoroa Community Board), and A Sole (Chairperson, Waihi Beach Community Board)

## **Others**

J Dugmore (Member, Te Puke Community Board)

## **Apologies**

An apology for lateness was received from Councillor Dally.

**Resolved:** Mackay / Lally

*THAT the apology for lateness from Councillor Dally be accepted.*

## Declarations of Interest

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

Members were advised that if they had an interest (actual, potential, perceived, pecuniary or non pecuniary interest) in any item on the agenda, then they must declare this interest and refrain from discussing or voting on the item and are advised to withdraw from the meeting table for the item (as per the Local Authorities (Members' Interest) Act 1968).

The following disclosures of interest were made regarding this agenda:

- Councillor Dean advised regarding remit PP21.1 that his son-in-law worked for the Tauranga Racing Club.
- Councillor Mackay advised regarding remit PP21.1 that he was a member of the Katikati RSA, which had gaming machines on their premises.

### PP21.1 **Class 4 Gambling Venues Policy and TAB Venues Policy Deliberations and Adoption**

The Policy Committee considered a report from the Senior Policy Analyst dated 12 June 2019 as circulated with the agenda. The following was noted:

- There were two policies for consideration.
- 157 submissions were received during the public consultation; the majority supporting the preferred option consulted upon.

In response to questions, staff confirmed that the policy did not use the term 'sinking lid' and would say that there would be no additional gaming machines in the district. It was also confirmed that the sinking lid would be from the current number of gaming machines in the district.

9.37am Councillor Dally entered the meeting

**Resolved:** Marshall / Murray-Benge

1. *THAT the Senior Policy Analyst report dated 12 June 2019 and titled 'Class 4 Gambling Venues Policy and TAB Venues Policy Deliberations and Adoption' 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 Committee receives all written and verbal feedback from the special consultative procedure 18 March to 18 April 2019, as set out in the document titled 'Class 4 Gambling Venues Policy and TAB Venues Policy – Submissions Pack' as circulated separately with this agenda.*
4. *THAT in relation to the following issues, the Committee resolves:*

- a. *Regarding Issue 1: Approach to limiting Class 4 gambling machines Option A being:*

*THAT a 'sinking lid' be introduced, whereby no new machines or venues are allowed.*

**Reasons**

- *Provides certainty to the community and businesses.*
- *Prevents any increase in potential gambling harm by actively seeking a decrease in machines or venues.*
- *Aligns with the majority of feedback (80%) from consultation.*

*Regarding Issue 2: Approach to Class 4 gambling venues relocations, Option A being:*

- b. *THAT Council will not give consent for a venue to move locations within the District*

**Reasons**

- *Provides certainty to the community and businesses.*
- *Prevents any increase in potential gambling harm by actively seeking a decrease in machines or venues.*
- *Aligns with the majority of feedback (66%) from consultation.*

- c. *Regarding Issue 3: Approach to Class 4 gambling venue locations, Option A being:*

*THAT this section be removed as unnecessary, due to the overall Policy direction*

**Reasons**

- *Aligns with the majority of feedback (76%) from consultation.*

- d. *Regarding Issue 4: Approach to Club mergers, Option A being:*

*THAT any two or more clubs that currently hold Class 4 Gambling licences will not be allowed to continue hosting gaming machines if they choose to merge.*

**Reasons**

- *Provides certainty to the community and Clubs.*
- *Prevents any increase in potential gambling harm by actively seeking a decrease in machines or venues.*
- *Aligns with the majority of feedback (69%) from consultation.*

- e. *Regarding Issue 5: TAB Venues Policy, Option A being:*

*THAT no Board Venues be allowed in the District.*

**Reasons**

- *Provides certainty to the community and business.*

- *Prevents any increase in potential gambling harm by preventing the establishment of venues.*
  - *TAB activities may still continue in other venues (pubs/hotels, or via its app)*
  - *Aligns with the majority of feedback (83%) from consultation.*
5. *THAT the Draft Class 4 Gambling Venues Policy (Attachment A) and Draft TAB Venues Policy (Attachment B) are adopted pursuant to s102 of the Gambling Act 2003 and s65E of the Racing Act 2003, in accordance with the options set out in resolution 4 of this meeting, and with effect from 1 July 2019.*
6. *THAT the Committee direct staff to prepare a decision document for adoption by the Council on 22 August 2019, and in the interim to make key stakeholders and operators aware of any changes to the policies.*

Councillor Mackay took no part in the discussion on this item and abstained from voting.

## PP21.2

### **Draft Trading in Public Places Bylaw Deliberations**

The Policy Committee considered a report from the Senior Policy Analyst dated 12 June 2019 as circulated with the agenda. The following was noted:

- 27 submissions were received on this topic; the majority in agreement with the consulted upon preferred option.
- An extra issue had been included through consultation regarding cultural appropriateness.

In response to questions, staff advised as follows:

- The bylaw governed trading on main streets and could be waived if Council deemed appropriate for an event. All other consents including resource consents and liquor licences would still be applicable.
- The Lions Market in Katikati was not subject to the bylaw because the market did not take place on the main road.
- There were currently 14 licences issued for trading in public places.
- A trader could not set up within 300 metres of a business that sold like products. For example, a coffee cart could not be set up within 300 metres of a coffee shop.
- Traders were able to operate on private land without a licence.

**Resolved:** Mayor Webber / Dally

1. *THAT the Senior Policy Analyst report dated 12 June 2019 and titled 'Trading in Public Places Bylaw Deliberations' 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 Committee receives all written and verbal feedback from the special consultative procedure 18 March to 18 April 2019, as set out in the document titled 'Trading in Public Places Bylaw – Submissions Pack' as circulated separately with this agenda.*

4. *THAT in relation to the following issues, the Committee resolves,*

a. *Regarding Issue 1: Approach to traders in Katikati and Te Puke mainstreets, Option B being:*

*THAT the exclusion on trading on the State Highway in the urban areas of Te Puke and Katikati be removed (noting the standard application process would still be required).*

**Reasons**

- *Enables trading in the district's main centres, potentially adding vibrancy.*
- *May offer an increased range of goods and services in the main shopping areas.*
- *Helps enable market days.*
- *District level consistency, relying on the exclusion area around similar shops to limit negative impacts.*
- *Aligns with the feedback received through consultation.*

b. *Regarding Issue 2: The effect of speed limits on where trading in public places occur, Option B being:*

*THAT the draft bylaw replace the prohibition of trading on roads with speeds greater than 50km, with the requirement for approval from an authorised person from Council's roading team or NZTA.*

**Reasons**

- *Safety is considered through the application.*
- *Demonstrates a more practical approach, considering actual implications and site suitability.*
- *Reflects current practice.*
- *Aligns with the feedback received through consultation.*

c. *Regarding Issue 3: Impacts on neighbours and potential benefits to the area, Option B being:*

*THAT the bylaw include a requirement to identify impacts on neighbouring areas or positive impacts on the area.*

**Reasons**

- *Costs and benefits of an activity are considered.*
- *Rationale behind decision making is given.*
- *Aligns with the feedback received through consultation.*

d. *Regarding Issue 4: Cultural appropriateness, Option B being*

*THAT the bylaw include an additional consideration of:  
"The cultural appropriateness of the trading and the site proposed. Where staff have concerns these may be discussed with the relevant Tangata Whenua representative."*

**Reasons**

- *Cultural appropriateness of an activity are considered.*
  - *Future issues maybe averted.*
  - *Responds to a clear request from submitters.*
  - *Unlikely to be a relevant consideration in the majority of applications*
  - *Where concern arises this maybe addressed by contacting the relevant iwi representative.*
5. *THAT pursuant to s155 of the Local Government Act 2002, Council confirms that the draft bylaw is the most appropriate way of addressing the perceived problem, 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.*
6. *THAT the draft Trading in Public Places Bylaw (Attachment A) is recommended to Council for adoption.*
7. *THAT the Committee directs staff to prepare a decision document as the formal response to submitters, to be adopted by Council (with any amendments) alongside the final bylaw.*

PP21.3

**Deliberations on the draft Animals (excluding dogs) Bylaw 2019, draft Cemeteries Bylaw 2019, and draft Public Places Bylaw 2019, and proposed revocation of the Nuisances Bylaw 2008**

The Policy Committee considered a report from the Policy Analyst dated 13 June 2019 as circulated with the agenda. It was noted that 38 submissions were received regarding the General Bylaw during the consultation period and the majority of the feedback had been in agreement with the consulted upon preferred option.

Elected Member comments:

- (Issue 1) Councillors felt that option 1B was the more fair option as it limited the number of bee hives on urban properties but made provision for exceptions to be made if a property could sustain more beehives without causing nuisance.
- (Issue 2) It was noted that maintenance of some cemeteries had become difficult with the number and positioning of ornaments on grave sites.
- Decisions needed to be balanced with the ability of staff to enforce the bylaws.

In response to questions, staff advised as follows:

- It was clarified that the definition of 'urban property' was that it was zoned residential.
- The ability to enforce Council bylaws would be delegated to specific officers of Council. These staff would be encouraged to use discretion when doing so.
- The Cemeteries bylaw would only apply to cemeteries owned by the Council.

**Resolved:** Palmer / Marshall

1. *THAT the Policy Analyst report dated 13 June 2019 and titled 'Deliberations on the draft Animals (excluding dogs) Bylaw 2019, draft Cemeteries Bylaw 2019, and draft Public Places Bylaw 2019, and proposed revocation of the Nuisances Bylaw 2008' 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 Committee receives all written and verbal feedback from the special consultative procedure 18 March to 18 April 2019, as set out in the document titled "General Bylaw 2008 Review – Submissions" as circulated separately with this agenda*
4. *THAT in relation to the following issues, the Committee resolves,*
  - a. *Regarding Issue 1: Animals (Excluding Dogs) Bylaw, Option 1B:*  
  
*Limit the number of bee hives in urban areas to two per property unless permission is granted by Council.*

**Reasons**

- *Limiting the number of bee hives to two per urban property would support the majority of submissions for this change*
- *The resolution would be consistent with the recommendation made by Apiculture New Zealand*
- *Nuisances caused by bees would be limited by the maximum number of bee hives allowed*
- *Very large properties which are still within urban areas may be granted the ability to host additional bee hives.*

- b. *Regarding Issue 2: Cemeteries, Option 2A being:*

- i. *Allow dogs in cemeteries provided they are on-leash at all times.*

**Reasons**

- *Submissions seeking that dogs be allowed in cemeteries will be ratified, while retaining consistency with Council's Dog Control Policy which seeks to minimise the likelihood for conflict between dogs and the public or*

*environment, by restricting access or dogs to public places where appropriate.*

**AND**

*ii. Option 2C being:*

*Control ornaments in cemeteries by prohibiting the placement of ornaments or similar outside the bounds of a plot (cemetery beam / concrete structure).*

**Reasons**

- *Enables Council to control the use of ornaments (or similar) surrounding plots*
- *Council staff may remove items around plots which otherwise hinder the ability to maintain a cemetery*
- *The majority of submitters support this option*

*c. Regarding Issue 3: Public Places, Option 3A being:*

*To remove unenforceable, impracticable and obsolete provisions as proposed for consultation.*

**Reasons**

- *Impractical and obsolete provisions identified by staff will be removed, streamlining the bylaw and removing potential for customers to make a complaint under the bylaw which would be better dealt with through other mechanisms.*
- *The bylaw would be legally valid for a further five years.*

*d. Regarding Issue 4: Nuisances being:*

*Option 4A being to revoke the Nuisances Bylaw chapter as proposed for consultation.*

**Reasons**

- *Impractical and obsolete provisions within the entire Nuisances Bylaw will be revoked, removing potential for customers to make a complaint under the bylaw which would be better dealt with through other mechanisms*

- 5. THAT pursuant to s155 of the Local Government Act 2002, Council confirms that the draft bylaws are the most appropriate way of addressing the perceived problem, the draft bylaws are most the appropriate form of bylaw, and that the draft bylaws do not give rise to any implications under the New Zealand Bill of Rights 1990.*
- 6. THAT the Policy Committee recommends to Council that the Animals (excluding dogs) Bylaw 2019, Cemeteries Bylaw 2019, and Public Places Bylaw 2019 be adopted and become effective on 23 August 2019, and that the Nuisances Bylaw 2008 be revoked on that date.*

7. *THAT the Committee 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.*

PP21.4

**Receipt of Policy Committee Information Pack No. PP21**

The Policy Committee considered the Policy Committee Information Pack No. PP21 dated 27 June 2019 as circulated separately with the agenda.

**Resolved:** Mackay / Scrimgeour

*THAT the Policy Committee Information Pack No. PP21 dated 27 June 2019 be received and the information noted.*

The meeting concluded at 10.10am.

PP21