



Otorohanga District Council

AGENDA

16 June 2015

10.00am

Members of the Otorohanga District Council

Mr MM Baxter (Mayor)
Mr RM Johnson
Mrs RA Klos
Mr KM Phillips
Mrs DM Pilkington (Deputy Mayor)
Mr R Prescott
Mr PD Tindle
Mrs AJ Williams

Meeting Secretary: Mr CA Tutty (Governance Supervisor)

OTOROHANGA DISTRICT COUNCIL

16 June 2015

Notice is hereby given that an ordinary meeting of the Otorohanga District Council will be held in the Council Chambers, Maniapoto St, Otorohanga on Tuesday 16 June 2015 commencing at 10.00am.

5 June 2015

DC Clibbery
CHIEF EXECUTIVE

AGENDA

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PRESENT

IN ATTENDANCE

APOLOGIES

ITEMS TO BE CONSIDERED IN GENERAL BUSINESS

CONFIRMATION OF MINUTES – 19 MAY 2015

REPORTS

Item 212 KAWHIA COMMUNITY BOARD MINUTES 29 MAY 2015

**To: His Worship the Mayor and Councillors
 Otorohanga District Council**

From: Governance Supervisor

Date: 16 June 2015

Executive Summary

Minutes of the meeting of the Kawhia Community Board held on 29 May 2015 as previously circulated.

Staff Recommendation

It is recommended that:

The minutes of the meeting of the Kawhia Community Board held on 29 May 2015 be received.

CA Tutty
GOVERNANCE SUPERVISOR

**Item 213 ALCOHOL REGULATORY AND LICENCING AUTHORITY HEARING ON
OTOROHANGA PROVISIONAL ALCOHOL POLICY**

**To: His Worship the Mayor and Councillors
Otorohanga District Council**

From: Environmental Services Manager

Date: 16 June 2015

Relevant Community Outcomes

- The Otorohanga District is a safe place to live
 - Ensure services and facilities meet the needs of the Community
 - Promote the local economy and opportunities for sustainable economic development
 - Manage the natural and physical environment in a sustainable manner
-

Executive Summary

Council's Provisional Local Alcohol Policy is set down for hearings before the Authority on 15 June at the District Court in Hamilton.

Staff Recommendation

It is recommended that:

1. The Environmental Services Manager's report be received and,
2. Notwithstanding any direction received from the Authority, Council undertakes to reconsider those elements of the Otorohanga Provisional Local Alcohol Policy that it has agreed are unreasonable in light of the object of the Act

Report Discussion

The Sale and Supply of Alcohol Act (the Act) received Royal assent on 18 December 2012. This new legislation included provisions for local alcohol policies under which a Council could set controls on the location and operations of licenced premises.

The Act states that `territorial authorities may have a policy relating to the sale, supply, or consumption of alcohol within its district.

Prior to the Acts commencement Waipa Waitomo and Otorohanga had entered into a shared services agreement for Environmental Health Services. It was considered sensible to approach the development of a Local Alcohol Policy (LAP) as a joint Council project. This collaboration was to later roll out to include a joint licencing committee for the three districts.

The first decision Council had to make was whether or not to proceed with the idea of having a LAP.

An initial round of community engagement was carried out through advertising in local papers and on Council websites. This included a questionnaire asking if people wanted Council to adopt a LAP and to comment on aspects of the current liquor control system that they were comfortable with or wanted to see changed i.e. hours, numbers of outlets etc.

As a result of this survey Council formally resolved to produce a LAP and to produce this policy in collaboration with Waipa and Waitomo.

A draft local alcohol policy was adopted and notified for public submissions on 6 August 2013. The draft policy generated a lot of interest and comment. In total 37 written submissions were

received and 11 submitters requested to be heard at a public hearing. At this meeting Council also resolved to establish a joint licencing committee for the three districts.

At the Hearing on 3 October 2013, Councillors heard commentary and opinions from a wide range of public health bodies, NGOs, industry associations and businesses. Deliberations were held following the Hearing and a number of changes were made to the draft policy in response to the submissions received. A Provisional Local Alcohol Policy (PLAP) was circulated to submitters, who were advised it would be approved by Council in February 2014, at which time the formal appeal period would commence.

On 18 February Council approved the notification of the PLAP. Following public notification any person who made a submission on the Draft LAP was able to lodge an appeal with the Alcohol Regulatory and Licencing Authority (the Authority). Any appeal had to be made by 28th March 2014.

Three appeals were lodged with the Authority in Wellington. The appellants were Progressive Enterprises Ltd who own and operate the Countdown supermarket chain, Super Liquor Holdings Ltd, The Mill Retail Holdings and Independent Liquor (NZ) Ltd.

At this stage the matter went into hiatus as other (and larger) Councils who already had appeals against their policies lodged with the Authority were scheduled for hearings. As this is new legislation the decisions of these initial hearings sets precedent for future hearings so the outcomes have been closely followed.

Since March 2014 the subject of our PLAPs has become 'live' because first Waipa, and then Otorohanga and Waitomo PLAP's were set down for hearings before the Authority. The hearing date for Otorohanga is 15 June at the District Court in Hamilton.

Due to the similarities of our policies and the desire to maintain a consistent policy setting for our Licencing Committee the three member Councils are collaborating on resolving the appeals.

By way of collaboration all Councils have engaged Joan Forrett from Harkness Henry to represent us in the appeals process. She has been working with a number of Waikato Councils (the early ones) and is very current on the changes occurring as this new area of law develops.

Following meetings between the appellants, Council staff and our solicitors an "appeals version" of the PLAP has been drafted. The basis of the changes is that all parties agree that certain (highlighted) elements in the policy are unreasonable in light of the object of the Act. At the hearing on 15 June Council will be asking the Authority to make an Order that Council reconsiders those elements pursuant to section 83(2) of the Act.

The Judge has requested that Council's solicitor appear before the Authority to explain the reasoning behind the changes requested.

Following the Hearing those elements of the policy which are subject to change will have to be formally reconsidered by Council. The final form of the policy will have to be re-notified to all who submitted on the affected sections of the policy. Only when these steps have been completed without objection can Council finally approve the Local Alcohol Policy

Andrew Loe
ENVIRONMENTAL SERVICES MANAGER

Attachment

- a. Joint Memorandum to the Alcohol Regulatory and Licencing Authority

**ALCOHOL REGULATORY AND LICENSING AUTHORITY
SITTING AT HAMILTON**

**255974/2014;256194/2014;
256193/2014**

IN THE MATTER of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER of appeals under section 81 of the Act
against Otorohanga District Council's
provisional local alcohol policy by
**PROGRESSIVE ENTERPRISES
LIMITED; THE MILL RETAIL HOLDINGS
LIMITED** and **INDEPENDENT LIQUOR
(NZ) LIMITED**; and **SUPER LIQUOR
HOLDINGS LIMITED**

Appellants

AND **THE NEW ZEALAND POLICE and THE
MEDICAL OFFICER OF HEALTH**

Section 205 Parties

AND **OTOROHANGA DISTRICT COUNCIL**

Respondent

**JOINT MEMORANDUM OF THE PARTIES
SEEKING ORDERS**

**HARKNESS HENRY
LAWYERS
HAMILTON**

Solicitor: Dr Joan Forret
Joan.forret@harkness.co.nz

Respondent's Solicitor
Private Bag 3077
Hamilton 3240
Tel 07 838 2399
Fax 07 839 4043

May it please the Authority:

1. Appeals have been lodged in respect of elements of the provisional local alcohol policy (**PLAP**) prepared by the Otorohanga District Council ("Council") and publicly notified on 26 February 2014 under section 80(1) of the Sale and Supply of Alcohol Act 2012 (**the Act**).
2. The New Zealand Police and the Medical Officer of Health, have given notice of their intention to appear and be heard under section 205 of the Act.
3. This memorandum reflects agreement of the parties in relation to seven elements of the PLAP and three definitional matters that were subject to appeal.
4. The parties agree that the following elements are unreasonable in light of the object of the Act and request that the Authority makes an Order that Council reconsiders the elements pursuant to s 83(2):
 - (a) Element 4.2 which concerns the location of premises holding off-licences by reference to broad areas;
 - (b) Element 4.3 which concerns the location of premises holding off-licences by reference to proximity to premises of a particular kind or kinds;
 - (c) Element 4.4 which concerns the location of premises holding off-licences by reference to proximity to facilities of a particular kind or kinds;
 - (d) Element 4.6 which concerns the maximum trading hours for premises holding off-licences;
 - (e) Element 4.7 which concerns discretionary conditions of off-licences;
and
 - (f) The Policy Guidance Document, to the extent that this document can be considered part of the PLAP by incorporation into other elements.

SAS-469778-3-69-V1:jbf

5. The parties agree that the following elements, which were also appealed, are not unreasonable:
 - (a) The lack of a statement in the definitions that all other terms are as defined in the Sale and Supply of Alcohol Act 2012;
 - (b) The lack of a definition of "new licence";
 - (c) The definition of "early childhood facility";
 - (d) Element 5.0 Specific Policies – Club Licences
 - (e) Element 6.0 Specific Policies – Special Licences
6. The parties have also identified grammatical and typographical errors and some elements that may need to be amended as a consequence of changes to the elements listed in paragraph 4. Those amendments will be identified in the reconsidered PLAP on resubmission.
7. In light of the Practice Note of the Alcohol Regulatory and Licensing Authority dated 19 March 2014, and s 83(2) of the Act, the Council seeks the following directions:
 - (a) Council must reconsider the following elements pursuant to s 83(2):
 - (i) Element 4.2: location of premises holding off-licences by reference to broad areas;
 - (ii) Element 4.3: location of premises holding off-licences by reference to proximity to premises of a particular kind or kinds;
 - (iii) Element 4.4: location of premises holding off-licences by reference to proximity to facilities of a particular kind or kinds;
 - (iv) Element 4.6: maximum trading hours for premises holding off-licences;
 - (v) Element 4.7: discretionary conditions of off-licences; and

(vi) The Policy Guidance Document.

8. The following elements of appeals are dismissed:

(a) The appeals by Super Liquor Holdings Ltd in respect of:

- (i) The lack of a definition of "new licence";
- (ii) The definition of "early childhood facility";
- (iii) Element 5.0 Specific Policies – Club Licences;
- (iv) Element 6.0 Specific Policies – Special Licences; and

(b) The appeals by The Mill Retails Holdings Ltd and Independent Liquor (NZ) Ltd in respect of:

- (i) The lack of a statement in the definitions that all other terms are as defined in the Sale and Supply of Alcohol Act 2012;

9. The parties further request a direction that appearances at the hearing scheduled for Monday 15th June 2015 are excused from parties other than the Council, who will address the Authority on any matters arising from this memorandum.

10. The parties have further agreed that costs shall lie where they fall.

Dated: 5 June 2015



J Forret
Counsel for Otorohanga District Council



AW Braggins
Counsel for Progressive Enterprises Limited

S McDowell
Agent for Super Liquor Holdings Limited

JD Young
Counsel for The Mill Retail Holdings Ltd and Independent
Liquor (NZ) Ltd

R Henderson
For the Medical Officer of Health

J Dalziell-Kernohan
Representative for the New Zealand Police

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Item 214 ENVIRONMENTAL HEALTH OFFICER/LIQUOR LICENSING INSPECTOR'S REPORT FOR JANUARY TO MARCH 2015

**To: His Worship the Mayor and Councillors
Otorohanga District Council**

From: Environmental Health Officer / Liquor Licensing Inspector

Date: 16 June 2015

Relevant Community Outcomes

- The Otorohanga District is a safe place to live
 - Ensure services and facilities meet the needs of the Community
 - Promote the local economy and opportunities for sustainable economic development
 - Manage the natural and physical environment in a sustainable manner
-

Executive Summary

The Environmental Health Officer / Liquor Licensing Inspector's report for the period 1 January to 31 March 2015.

Staff Recommendation

It is recommended that:

The Environmental Health Officer / Liquor Licensing Inspector's report for 1 January to 31 March 2015 be received.

Report Discussion

Sale and Supply of Alcohol Act 2012

A second meeting of the Collaboration group was held at Otorohanga District Council offices on 18 March 2015.

The group is attended by the Police, Health Board and licensing inspectors of the nearby territorial authorities and discuss local issues around licensing and the Act.

The Police and the Health Board advised that they undertook a controlled purchase operation (CPO) in the district in November. No premises in this district sold alcohol to prohibited persons during the CPO. This was well received by all.

Another CPO was undertaken in May for food availability in on-licence premises. No Otorohanga District premises were targeted on this occasion but it is the intention to undertake a future operation which may include Otorohanga.

Locally a few licence holders have been reminded of their responsibilities around submitting Special licence applications with 20 days' notice to the District Licence Committee. This time period is set down in statute however there are exceptions where notice of the event is unforeseen e.g. funerals. Licensed holders are generally very good at complying but education for a few continues.

Seven Seas Limited, trading as Thirsty Liquor, have purchased Gold n Kiwi off-licence and are currently trading under a temporary authority for three months in order to apply for their new licence.

Liquor Licensing Statistics

• On Licences	New	0
	Renewals	1
• Off Licences	New	0
	Renewals	1
• Club Licences	New	0
	Renewals	1
• Managers certificates	New	2
	Renewals	4
• Special licences		6
• Temporary Licences		0

The Health Act 1956

Food and food premises

The new Food Act 2014 has been enacted and commences for food businesses that have an alcohol on-licence, in March 2016. There are eight such premises which will be required to transition in the first year and they have one year to comply. The other business types will transition in year 2 and year 3.

The food control plan is a completely new mind set for businesses and information has been forwarded to affected premises, with links to relevant websites and an invitation to contact me if they need further advice.

All premises that are registered under the Health Act 1956 and the Food Hygiene Regulations 1974 have been inspected this financial year. There have been no major issues.

Infectious Disease

There have been four infectious diseases reported to Otorohanga District Council since my last report.

All were sporadic and not part of an outbreak. Probable causation ranged from consuming own contaminated water supply, contaminated food, infected animal and person to person.

General advice was given to prevent transmission and recurrence.

Nuisance

ODC received two malodourous complaints. The first was an intermittent sewage smell. The source could not be located and no further action was taken. The second regarded a service vehicle sited next to dwellings. The owner has since been compliant but advised recurrence may result in formal proceedings.

ODC received one complaint regarding rodent activity in a local garden. The neighbours were letter dropped requesting they ensure any vermin attraction is removed. There have been no further complaints.

Resource Management Act 1991

Noise

Two occupants of dwellings in the district were formally advised that noise occurrences from their properties were required to cease otherwise formal proceedings would ensue. Both premises are being monitored.

General

A request was made for information regarding the sale of psychoactive substances by a potential retailer. Waikato District health Board advised that no retail of psychoactive substances is permitted until further notice.

Mary Fernandez

ENVIRONMENTAL HEALTH OFFICER / LIQUOR LICENSING INSPECTOR

Item 215 LONG TERM PLAN 2015-2025 SUBMISSIONS**To: His Worship the Mayor & Councillors
Otorohanga District Council****From: Finance and Administration Manager Manager****Date: 16 June 2015**

Relevant Community Outcomes

- Foster an involved and engaged community
-

Executive Summary

Council to consider submissions on the 2015-2025 Draft Long Term Plan.

Staff Recommendation

It is recommended:

That the submissions to the Otorohanga District Council Draft Long Term Plan 2015-25 be received.

Report Discussion

Submissions on the Draft Long Term Plan 2015-25 and Consultation Document closed on the 29 May 2015. Council received 26 submissions of which 11 wish to be heard. As there is potential for some of the submissions to change the financial impact of the LTP, Council will adopt the Draft Long Term Plan 2015-25 and Rates Resolution at a special meeting of Council on the 23 June 2015. Below is the list of submissions, and the time those who wish to speak to their submissions will attend the meeting.

Submitters who wish to be heard -

TIME	#	ORGANISATION	NAME
10.30am	1	ClubCHAMPS	Andy Conners, NZ Police
10.45am	2	Otorohanga Zoological Society	Roger Brady
11.00am	3	Otorohanga Tennis Club	Marcus Paterson
11.15am	4	Individual re Water Metering	Phallyn Rangitaawa
11.30am	5	TOAST – Smoke free outdoor policy	Wayne Borell
11.45am	6	Opus Orchestra	Brigid Eady
12noon	7	Waikato Regional Council	Neville Williams (Director of Community & Services)
12.15pm	8	Individual re Water metering	Michaela Rangitaawa-Schofield
1.15pm	9	Otorohanga District Council Staff	Graham Bunn
1.45pm	10	Hamilton & Waikato Tourism	Kiri Goulter
2.00pm	11	Sport Waikato	Matthew Cooper

Submitters who do not wish to be heard -

#	ORGANISATION	NAME
12	CCS Disability Action	Gerri Pomeroy
13	Community Waikato	Andrea Goble
14	Creative NZ	David Pannett
15	Federated Farmers	Hilary Walker
16	McGuinness Institute	Wendy McGuinness
17	Otorohanga Netball	Dorothy Carr
18	Physicians & Scientists for Global Responsibility	Jean Anderson
19	Population Health	Dr Dell Hood
20	Individual re Water Metering	Linda Rangitaawa
21	Individual re Water Metering	Lisa Nicol-Rangitaawa
22	Individual	David & Alison Sellars
23	Individual	David Bailey
24	Toimata Foundation – Enviroschools Programme	Kristen Price
25	Trust Waikato	Bev Gatenby
26	Te Awamutu Birthing	Anita Bain

Graham Bunn
FINANCE AND ADMINISTRATION MANAGER

Item 216 ODC MATTERS REFERRED FROM 19 MAY 2015

**To: His Worship the Mayor & Councillors
 Otorohanga District Council**

From: Governance Supervisor

Date: 16 June 2015

Executive Summary

1. CR PILKINGTON

19 May 2015

- i. To query with the Otorohanga District Development Board whether their minutes of meetings and accounts could be forwarded to Councillors.

2. ENGINEERING MANAGER

19 May 2015

- i. To prepare a report for consideration by members of the Ranginuni Rural Water Supply Committee regarding the future options available for the Scheme.
- ii. To arrange for a report to be prepared on the opportunities available at Frost's Pit.
- iii. To investigate the suggestion that an entrance sign be erected on the Waipapa Rd as you come into Arohena.
- iv. To investigate the suggestion to install 'cats eyes' on Bayley Rd.

**CA Tutty
GOVERNANCE SUPERVISOR**

GENERAL