



**The Ordinary Meeting of the  
Kawerau District Council will be held  
on Wednesday 22 February 2023  
in the Council Chambers  
commencing at 9.00am**

**AGENDA**

### **GUIDELINES FOR PUBLIC FORUM AT MEETINGS**

1. A period of thirty minutes is set aside for a public forum at the start of each Ordinary Council or Standing Committee meeting, which is open to the public. This period may be extended on by a vote by members.
2. Speakers may address meetings on any subject. However, issues raised must not include those subject to legal consideration, or be issues, which are confidential, personal, or the subject of a formal hearing.
3. Each speaker during the public forum is permitted to speak for a maximum of three minutes. However, the Chairperson has the discretion to extend the speaking time.
4. Standing Orders are suspended for the duration of the public forum.
5. Council and Committees, at the conclusion of the public forum, may decide to take appropriate action on any of the issues raised.
6. With the permission of the Chairperson, members may ask questions of speakers during the period reserved for public forum. Questions by members are to be confined to obtaining information or clarification on matters raised by the speaker.

**The Ordinary Meeting of the Kawerau District Council  
will be held on Wednesday 22 February 2023  
in the Council Chambers commencing at 9.00am**

**AGENDA**

**Apologies**

**Leave of Absence**

**Pg. 1**

Councillor Julian has requested a leave of absence from Wednesday 21 June 2023 until Wednesday 2 August 2023.

**Opening Prayer**

**Public Forum**

**Declarations of Conflict of Interest**

**1 CONFIRMATION OF COUNCIL MINUTES**

**1.1 Ordinary Council – 13 December 2022**

**Pgs. 3 - 5**

**Recommendation**

*That the minutes of the Ordinary Council Meeting held on 13 December 2022 be confirmed as a true and accurate record.*

**2 RECEIPT OF COMMITTEE MINUTES**

**2.1 Creative New Zealand Communities Grant Scheme – 9 December 2022**

**Pgs. 7 - 9**

**Recommendation**

*That the Minutes of the Creative New Zealand Communities Grant Scheme meeting held on 9 December 2022 be confirmed as a true and accurate record.*

**2.2 Regulatory and Services Committee – 13 December 2022**

**Pgs. 11 - 12**

**Recommendation**

*That the Minutes of the Regulatory and Services Committee meeting held on 13 December 2022 be confirmed as a true and accurate record.*

**2.3 Regulatory and Services Committee – 8 February 2023**

**Pgs. 13 - 14**

**Recommendation**

*That the Minutes of the Regulatory and Services Committee meeting held on 8 February 2023 be confirmed as a true and accurate record.*

**2.4 Audit and Risk Committee – 13 February 2023**

**Pgs. 15 - 17**

**Recommendation**

*That the Minutes of the Audit and Risk Committee meeting held on 13 February 2023 be confirmed as a true and accurate record.*

**3 Action Schedule (101120)**

**Pgs. 19 - 23**

**Recommendation**

*That the updated Action Schedule of resolutions/actions requested by Council be received.*

**4 Her Worship the Mayor's Report (101400)**

**Pg. 25**

**Recommendation**

*That Her Worship the Mayor's report for the period Monday 23 January 2023 to Tuesday 14 February 2023 is received.*

**5 Annual Plan Performance for the Six Months Ended 31 December 2022 (Chief Executive Office) (110400)**

**Pgs. 27 - 52**

Attached is a report summarising Council's financial and non-financial performance to 31 December 2022.

**Recommendations**

*That the report "Annual Plan Performance for the Six Months Ended 31 December 2022" be received.*

**6 Code of Conduct (Chief Executive Officer) (101300)**

**Pgs. 53 - 89**

Attached for your consideration and adoption is Council's Code of Conduct.

**Recommendations**

1. *That the report "Code of Conduct" be received.*

2. *That Council adopts the Code of Conduct.*

**7 Local Governance Statement (Group Manager, Finance and Corporate Services) (103000)**

**Pgs. 91 - 117**

Attached is a report on the Local Governance Statement.

**Recommendations**

1. *That the report "Local Governance Statement" be received.*

2. *That Council adopts the Local Governance Statement for the current triennium.*

**8 Bay of Plenty Mayoral Forum Triennial Agreement 2022 - 2025 (Chief Executive Officer) (104040)**

**Pgs. 119 - 130**

Attached for your consideration and approval is the Triennial Agreement for the Bay of Plenty Mayoral Forum.

**Recommendations**

- 1. That the report "Bay of Plenty Mayoral Forum Triennial Agreement 2022 - 2025" be received.*
- 2. That Council notes that the Local Government Act 2002 requires no later than 1 March after each triennial general election of members, all local authorities within each region to enter into a triennial agreement covering the period until the next election.*
- 3. That Council endorses the draft Bay of Plenty Mayoral Forum Triennial Agreement 2022 - 2025.*

**9 Adoption of the Draft Eastern Bay of Plenty Local Alcohol Policy for Public Consultation (Group Manager, Regulatory and Planning) (110876)**

**Pgs. 131 - 254**

Attached is a report on the Adoption of the Draft Eastern Bay of Plenty Local Alcohol Policy for Public Consultation.

**Recommendations**

- 1. That the report "Adoption of the Draft Eastern Bay of Plenty Local Alcohol Policy for Public Consultation" be received.*
- 2. That the Council acknowledges that the Draft Eastern Bay of Plenty Local Alcohol Policy will continue to be a joint policy between Whakatane District Council, Kawerau District Council and Opotiki District Council.*
- 3. That the Council adopts the Draft Eastern Bay of Plenty Local Alcohol Policy, Statement Proposal, and Research Report, as per appendices 1 – 3 for consultation between 27 March 2023 – 28 April 2023; and*
- 4. That Council nominate two Councillors to be representatives for the joint hearings and Deliberations meeting following consultation taking place.*

**R B George**  
**Chief Executive Officer**

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**To The Mayor and the CEO**

**Leave of Absence.**

I wish to apply for a leave of absence for the following meetings-:

June.

21 June Workshop

29 June Council meeting.

30 June Eastern Bay of Plenty Road Safety.

July.

12 July R & S

19 July Council

I will be overseas from 21 June until the 2 August. 2023.

Yours sincerely

Berice Julian





**Minutes of the Ordinary Meeting of the Kawerau District Council  
held on Tuesday 13 December 2022  
in the Council Chamber commencing at 9.52am**

**Present:** Her Worship the Mayor F K N Tunui  
Deputy Mayor A Rangihika  
Councillor B J Julian  
Councillor Godfery  
Councillor C J Ion  
Councillor J Ross  
Councillor S Kingi  
Councillor R Brooking  
Councillor R G K Savage

**In Attendance:** Chief Executive Officer (R George)  
Group Manager, Operations and Services (H van der Merwe)  
Group Manager, Regulatory and Planning (M Glaspey)  
Group Manager, Finance & Corporate Services (P Christophers)  
Economic and Development Manager (L Barton)  
Communications Manager (T Humberstone)  
Administration Officer (T Barnett)

**Apologies**

*No apologies were received.*

**Leave of Absence**

*No leave of absence were received.*

**Opening Prayer**

*Councillor Godfery opened the meeting with a prayer.*

**Public Forum**

*No public forum was received.*

**Declarations of Conflict of Interest**

*No declarations of conflict of interest were received.*

**1 CONFIRMATION OF COUNCIL MINUTES**

**1.1 Ordinary Council – 29 November 2022**

**Resolved**

**Councillors Ion / Savage**

*That the minutes of the Ordinary Council Meeting held on 29 November 2022 be confirmed as a true and accurate record.*

**2 Action Schedule (101120)**

**Resolved**

**Councillors Julian / Kingi**

*That the updated Action Schedule of resolutions/actions requested by Council is received.*

**4 Her Worship the Mayor's Report (101400)**

**Resolved**

**Her Worship the Mayor / Councillor Kingi**

*That Her Worship the Mayor's report for the period Wednesday 23 November 2022 to Tuesday 6 December 2022 is received.*

**5 Waste Disposal Fees (Group Manager, Operations and Services) (406000)**

Council discussed the report "Waste Disposal Fees".

**Resolved**

**Councillor Ion / Deputy Mayor Rangihika**

- 1. That the report "Waste Disposal Fees" is received.*
- 2. That Council increase the general refuse charge for commercial trucks only at \$260 per tonne up to 2 cubic meters and \$290 per tonne exceeding 2 cubic meters with a review at the Regulatory and Services meeting on 8 February 2023.*
- 3. That Council retain all other transfer station charges and fees until 30 June 2023.*

**7 Exclusion of the Public**

**Resolved**

**Councillors Julian / Ion**

*That the public is excluded from the following part of the proceedings of this meeting, namely:*

- 1. Confirmation of Minutes of the Ordinary Council Meeting (Confidential) – 29 November 2022.*

*The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds*

*under Section 48(1) of the Local Government Information & Meetings Act 1987 for the passing of this resolution is as follows:*

<b>General Subject of the matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48(1) for the passing of this resolution</b>
1. Confirmation of Minutes of the Ordinary Council Meeting (Confidential) – 29 November 2022.	Maintain the effective conduct of public affairs through the free and frank expression of opinions.	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48 (1) (a) (i)

*This resolution is made in reliance on Section 48(1) (a) of the Local Government Official Information & Meetings Act 1987 and the particular interest or interests protected by Section 7 (2) (b) (i) of that Act.*

**Meeting closed 10.46am**

F K N Tunui

**Mayor**

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**KAWERAU DISTRICT COUNCIL**

**Minutes of the Creative Communities Scheme Assessment Committee  
held on Friday 9 December 2022  
in the Committee Room commencing at 3.00pm**

**Present:** Warwick Godfery (Chair) (Councillor)  
Rowena Brooking (Councillor)  
Faylene Tunui (Mayor)  
Trish Brady (Arts Representative)  
Bernie Milne (Arts Representative)  
Skarlett Starr (Community Representative)  
Barbara Morgan (Community Representative)

**In Attendance:** Peter Christophers (Group Manager, Finance and Corporate Services)  
Theresa Barnett (Administration Officer)

**Karakia:**

Councillor Godfery opened the meeting with a prayer.

**Apologies:**

**Resolved**

**Brady / Starr**

*That apologies for Maryanne Tamatea and Kelly Johnson are received.*

**Declaration of Conflicts of Interest**

Bernie Milne declared a conflict of interest with applications 3.1 and 3.3.

**1. Confirmation of Minutes of The Creative Communities Scheme Assessment Committee Meeting held on 16 June 2021**

**Resolved**

**Godfery / Milne**

*That the Minutes of the Kawerau Assessment Committee for the Creative Communities Scheme meeting held on 16 June 2021 are confirmed as a true and correct record.*

**2. Return of Project Completion Reports**

The Committee considered Project Completion Reports from:

**2021 / 2022 1st Funding Round**

Seascapes Art Course (Application 3.1)

**2020 / 2021 2nd Funding Round**

Kawerau Arts Society (Application 3.2)  
Elizabeth (Hally) Barlow (Application 3.3)  
Cheryl Wilson (Application 3.8)

**Resolved**

**Starr / Morgan**

*That the information be received.*

### **3. Funding Application Summary 2022 / 23 Funding Round**

**Resolved**

**Julian / Starr**

*That the Funding Application Summary for the 2022 / 23 Funding Round is received.*

The committee assessed each application and scored the applications as follows:

#### **3.1 Sarah Penlington**

**Bernie Milne left the meeting at 15.28pm**

Amount requested      \$3213.00 (GST exclusive)

Purpose:                      Oil Painting Workshop

**Resolved**

**Morgan / Starr**

*That an allocation of \$3213.00 excluding GST be approved on the following conditions:*

- Select funding criteria. Applicant was asked to choose 1 from the list, they chose all 3.*
- Provide quotes to the Committee with quotes of the items you have listed on page 5 of the application.*
- Artist Bio. Can you please send through the artists bio for the committee to have a look at.*

#### **3.2 Rainbow Tribe Kids Care**

**Bernie Milne re-entered the meeting at 15.48pm**

Amount requested      \$4800.00 (GST inclusive)

Purpose:                      Maori Arts and Culture Te Taiao Programme

**Resolved**

**Starr / Brady**

*The suggestion was made that Rainbow Tribe Kids Care complete the application again, but only include the art focus part of their programme, specifically the material costs i.e. wool, fabric, feather etc. that they had indicated in their budget. Rainbow Tribe Kids Care will also need to include quotes for these materials and information on what tutors or artists they have to help with these art based projects to help strengthen your application.*

#### **3.3 Kawerau Arts Society**

Amount requested      \$4616.00.00 (GST inclusive)

Purpose:                      Exhibition, art Development Sessions

**Resolved**

**Councillor Brooking / Morgan**

*That the Kawerau Arts Society be invited to re-apply for the next round of funding opening up on Friday 24 February through to Friday 24 March 2023.*

### **3.4 Everybody is a Treasure**

Amount requested      \$3500.00 (GST inclusive)

Purpose:                      Visual Poetry Jam Workshop

**Resolved**

**Milne / Morgan**

*That an allocation of \$3500.00 including GST be declined.*

### **3.5 Film Bay of Plenty**

Amount requested      \$3750.00 (GST inclusive)

Purpose:                      Through the Eye of the Lens

**Resolved**

**Brady / Councillor Godfery**

*That an allocation of \$3750.00 including GST be approved on the following conditions:*

- *Select funding criteria. Applicant was asked to choose 1 from the list, they chose all 3.*
- *Film Bay of Plenty to provide the Committee with quotes of the items they listed on page 5 of their application.*
- *A copy of Film Bay of Plenty's latest financial statement. This could be a copy of your audited accounts, and income and expenditure statement, or a copy of your unaudited management accounts.*
- *Artist Bio. Can you please send through the artists bio for the committee to have a look at.*

**The meeting closed at 16.24pm with a prayer from Councillor Godfery.**

W Godfery  
**Chairperson**

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**Minutes of the Regulatory & Services Committee  
held on Tuesday, 13 December 2022  
commencing at 9.04am**

**Present:** Councillor C J Ion (Chairperson)  
Her Worship the Mayor F K N Tunui  
Deputy Mayor A Rangihika  
Councillor B Julian  
Councillor S Kingi  
Councillor W Godfery  
Councillor R Brooking  
Councillor R G K Savage  
Councillor J Ross

**In Attendance:** Chief Executive Officer (R George)  
Group Manager, Finance and Corporate Services (P Christophers)  
Group Manager, Regulatory and Planning (M Glaspey)  
Group Manager, Operations and Services (H van der Merwe)  
Communications Manager (T Humberstone)  
Acting Economic and Community Development Manager (L Barton)  
Administration Officer (T Barnett)

**Opening Prayer**

*Pastor Kingi opened the meeting with a prayer.*

**Apologies**

*No apologies were received.*

**Declarations of Conflict of Interest**

*No conflict of interest was declared.*

**Public Forum**

**Anne Kubler**

The exit at the back of the laundromat leading out into the carpark is unsafe for people coming out.

**Action Item:**

Discuss with the owner of the laundromat about assisting with the repairs to this area.

**PART A – REGULATORY**

**1 Monthly Report - Regulatory and Planning Services (340000)**

The Committee discussed a report covering Planning, Compliance and Capability activities for the month of November 2022.

**Action Items:**

Item 8.3 – Consultation to be had with the land owners of land identified under the National Policy Statement for Highly Productive Land.

**Resolved**

**Councillors Kingi / Savage**

*That the report on Regulatory and Planning Services activities for the month of November 2022 is received.*

## **PART B – NON REGULATORY**

### **2 Monthly Report - Finance and Corporate Services (211000)**

The Committee discussed a report from the Group Manager, Finance and Corporate Services covering activities for the month of November 2022.

#### **Action Item:**

Communication Manager to relay to the community the rubbish collection process.

**Resolved**

**Councillor Julian / Deputy Mayor Rangihika**

*That the report from the Group Manager, Finance and Corporate Services for the month of November 2022 is received.*

### **3 Monthly Report - Operations and Services (440000)**

The Committee discussed a report from the Group Manager, Operations and Services covering activities for the month of November 2022.

**Resolved**

**Councillors Godfery / Kingi**

*That the report from the Group Manager, Operations and Services for the month of November 2022 is received.*

### **4 Monthly Report - Economic and Community Development (Economic and Community Development Manager) (309005)**

The Committee discussed a report from the Economic and Community Development Manager covering economic and community activities for the month of November 2022.

#### **Action Items:**

Economic and Community Development Manager to provide Council with a breakdown of the funding from the Youth Fund Officials meeting with the Youth Council.

**Resolved**

**Her Worship the Mayor / Deputy Mayor Rangihika**

*That the report from the Economic and Community Development Manager for the month of November 2022 is received.*

**Meeting closed at 9.40am**

C J Ion

**Chairperson**

**Minutes of the Regulatory & Services Committee  
held on Wednesday 8 February 2023  
commencing at 9.00am**

**Present:** Councillor C J Ion (Chairperson)  
Her Worship the Mayor F K N Tunui  
Deputy Mayor A Rangihika  
Councillor B Julian  
Councillor S Kingi  
Councillor W Godfery  
Councillor R Brooking  
Councillor R G K Savage  
Councillor J Ross

**In Attendance:** Chief Executive Officer (R George)  
Group Manager, Regulatory and Planning (M Glaspey)  
Group Manager, Operations and Services (H van der Merwe)  
Communications Manager (T Humberstone)  
Acting Economic and Community Development Manager (L Barton)  
Administration Officer (T Barnett)

**Apologies**

*No apologies were received.*

**Declarations of Conflict of Interest**

*No conflict of interest was declared.*

**PART A – REGULATORY**

**1 Monthly Report - Regulatory and Planning Services (340000)**

The Committee discussed a report covering Planning, Compliance and Capability activities for the month of December 2022 and January 2023.

**Action Items:**

Item 2 – Monitoring and Compliance – A chart to be revised to capture the number of events that have been attended.

**Resolved**

**Councillors Julian / Savage**

*That the report on Regulatory and Planning Services activities for the month of December 2022 and January 2023 is received.*

**PART B – NON REGULATORY**

**2 Monthly Report - Finance and Corporate Services (211000)**

The Committee discussed a report from the Group Manager, Finance and Corporate Services covering activities for the month of December 2022 and January 2023.

### **Action Item**

Item 2 – Payments – Alter narrative regarding the payment for Holmac Limited and Cooney Lees and Morgan progress payment.

**Resolved**

**Deputy Mayor Rangihika / Councillor Brooking**

*That the report from the Group Manager, Finance and Corporate Services for the month of December 2022 and January 2023 is received.*

### **3 Monthly Report - Operations and Services (440000)**

The Committee discussed a report from the Group Manager, Operations and Services covering activities for the month of December 2022 and January 2023.

### **Action Item**

Item 10 – Vandalism – Location of the walls that have been vandalised to be included in monthly report.

Communications and Engagement Manager to relay to residents the reason behind the discolouration of the water. In addition, to include what zone we are up too with the pipe reticulation replacement project

**Resolved**

**Councillors Kingi / Ross**

*That the report from the Group Manager, Operations and Services for the month of December 2022 and January 2023 is received.*

### **4 Monthly Report - Economic and Community Development (Economic and Community Development Manager) (309005)**

The Committee discussed a report from the Economic and Community Development Manager covering economic and community activities for the month of December 2022 and January 2023.

**Resolved**

**Councillors Savage / Kingi**

*That the report from the Economic and Community Development Manager for the month of December 2022 and January 2023 is received.*

**Meeting closed at 9.38am**

C J Ion

**Chairperson**

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**Kawerau District Council Minutes of an  
Audit and Risk Committee held on 13 February 2023  
commencing at 1.00pm**

**Present:** Philip Jones – P J Associates (Chair)  
His Worship the Mayor – F K N Tunui  
Councillor A Rangihika  
Councillor C J Ion  
Councillor B Julian

**In Attendance:** Chief Executive Officer (R George)  
Group Manager, Finance & Corporate Services (L Butler)  
Group Manager, Regulatory and Planning (Michaela Glaspey)  
Health and Safety Officer (Paul Snook)  
Financial Accountant (P Christophers)  
Administration Officer (T Barnett)

**Apologies**

No apologies were received.

**Declarations of Conflict of Interest**

No conflicts of interest were received.

**1 Appointment of Chair and Deputy Chair for the Audit and Risk Committee (Financial Accountant) (101300)**

The Committee received the report on the Appointment of Chair and Deputy Chair for the Audit and Risk Committee.

**Resolved**

**Councillors Julian / Rangihika**

1. *That the report "Appointment of Chair and Deputy Chair for the Audit and Risk Committee" be received.*
2. *That the Audit and Risk Committee selected System B for the election of a Chair and Deputy Chair.*

**Resolved**

**Councillors Ion / Rangihika**

3. *That the Audit and Risk Committee elected Philip Jones as Chair Person and Mayor Tunui as Deputy Chair of the Audit and Risk Committee using System B.*

**2 Audit and Risk Committee Responsibilities and Delegations (Group Manager, Finance and Corporate Services) (101300)**

The Audit and Risk Committee discussed the report outlining the responsibilities and Delegations of the Audit and Risk Committee.

**Resolved**

**Councillors Ion / Julian**

*That the report "Audit and Risk Committee Responsibilities and Delegations" be received.*

**3 Occupational Health and Safety Management System Status (Health and Safety Officer) (509500)**

The Audit and Risk Committee reviewed the Health and Safety Officers report.

**Action Items:**

Refresher courses timeframe to be reviewed from 3 yearly to 2 yearly.

Event reports from the swimming pool to be reported on the number of days the pools were open.

**Resolved**

**Councillors Ion / Rangihika**

*That the report "Occupational Health and Safety Management System Status" is received.*

**4 Treasury Report to 31 December 2022 (Group Manager, Finance and Corporate Services) (110551)**

The Audit and Risk Committee discussed the report Treasury Report to 31 December 2022 from the Group Manager, Finance and Corporate Services.

**Resolved**

**Councillors Julian / Rangihika**

*That the report "Treasury Report to 31 December 2022" be received.*

**5 2023 / 2024 Annual Plan Timetable (Group Manager, Finance and Corporate Services) (110400)**

The Audit and Risk Committee discussed the report 2023 / 2024 Annual Plan Timetable from the Group Manager, Finance and Corporate Services.

**Resolved**

**Her Worship the Mayor / Councillor Julian**

*That the report "2023 / 2024 Annual Plan Timetable" be received.*

6 **Review of Council's Fraud Policy (Group Manager, Finance and Corporate Services) (201000)**

The Audit and Risk Committee discussed the report reviewing Council's fraud policy from the Group Manager, Finance and Corporate Services.

**Resolved**

**Councillors Rangihika / Ion**

*That the report "Review of Council's Fraud Policy" be received.*

***Meeting closed 1.52pm***

P Jones

**Chairperson**

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**Action Schedule**

<b>Meeting Date</b>	<b>Resolution / Action Requested</b>	<b>Action</b>	<b>Status</b>	<b>Comments</b>	<b>Estimated Completion Date</b>
A&R 04.02.20	<b>Council's Risk Maturity - Improvement Programme</b> Arrange KPMG to review Council's Risk Management Maturity profile once the tasks in progress / underway are completed.	GM F&CS	In Progress	Council has completed all areas recommended for improvement and will be engaging a consultant to further assess Council's risk maturity. Staff are currently investigating different providers of this service.	April 2023
Council 26.05.20	<b>Results of 2020 NRB Survey (Community Satisfaction Survey)</b> Elected Members agreed to review the way in which Council engages community satisfaction.	C&EM	Pending	Work is being progressed with potential providers for the triennial survey.  Timing of the survey has been assessed and C&EM requests to move the survey from January (the traditional timing for the survey) to March/April with the results available by the end of May/June 2023.  Opportunity to assess and dovetail the monthly customer satisfaction survey with this new provider (if appropriate). Further information will be brought to a workshop - early 2023.  Memo and Report to be tabled with CEO and Elected Members regarding service provider in line with Whakatāne and Ōpōtiki Councils – awaiting final scope from service provider.	March/April 2023
Council 28.06.22	<b>His Worship the Mayor's Report</b> The cemetery records to be moved from the toilet block area to another area of the cemetery.	GM O&S	In Progress	A solution has been developed. It is being costed and will be presented to Elected Members in a workshop.	April 2023

Meeting Date	Resolution / Action Requested	Action	Status	Comments	Estimated Completion Date
Council 28.06.22	Iwi consultation for the Spatial Plan	GM R&P	In Progress	The Whakatane/Kawerau Spatial Plan is being developed in partnership with central government and Iwi from both Whakatane and Kawerau. Tuwharetoa Settlement Trust has been invited to join, but declined as they do not believe they speak for all the Iwi. Tuwharetoa Kaumatua, Te Haukākawa (Boycie) Te Rire has agreed to sit at the Governance level (once established), and will liaise with Tuwharetoa Kaumatua on who may be the appropriate person to sit at the leadership level.	Ongoing
R&S 16.08.22	<b>Monthly Report - Operations and Services</b> Opus report to be made available to the Disability Group.	GM O&S	In Progress	Dependent on new Manager starting. Staff are evaluating and will provide a report to the Disability Group.	April 2023
R&S 13.09.22	<b>Monthly Report - Operations and Services</b> Staff to present a report for CCTV footage to Council at the 20 September 2022 Workshop with the urgency for New Zealand Police to attend.	GM F&CS	In Progress	A workshop was held on Tuesday 20 <sup>th</sup> September with Police attending. A further workshop will be held following meetings with stakeholders and adding additional cameras requested.	Complete March 2023

Meeting Date	Resolution / Action Requested	Action	Status	Comments	Estimated Completion Date
R&S 13.09.22	<p><b>Monthly Report - Economic and Community Development</b></p> <p>Staff to:</p> <ol style="list-style-type: none"> <li>provide Council with a date when the Bert Hamilton Hall repairs will commence.</li> <li>communicate to regular hirers of the Bert Hamilton Hall about the maintenance on the Hall.</li> <li>organise a letter of gratitude to be sent to the guest speakers of the Kawerau Young Achievers Awards.</li> </ol>	ECDM	In Progress	<ol style="list-style-type: none"> <li>Staff departure within Council has resulted in further delays in progress. Contractors will be engaged to determine works necessary and cost.</li> <li>A letter was sent to regular users and initial comms placed in latest newsletter explaining next course of action.</li> <li>Letter completed and circulated.</li> </ol>	February / March 2023
R&S 15.11.22	<p><b>Monthly Report - Regulatory and Planning Services</b></p> <p>Staff to invite Commissioner Russell Orr and Inspector Jan Pryor to speak at the next Regulatory and Services Committee Meeting about unannounced inspections and the timing of visits.</p> <p>Staff to contact MSD directly regarding alternative housing for homelessness with the introduction of the new Self-Contained Motor Vehicles Legislation Bill.</p>	GM R&P	In Progress	<p>A time is being arranged with Whakatane Licensing Inspector and Commissioner for early next year.</p> <p>Engaging with local MSD Office regarding alternative housing options for homelessness.</p>	March 2023
R&S 13.12.22	<p><b>Public Forum</b></p> <p>Staff to discuss with the owner of the laundromat about assisting with the repairs to carpark area.</p>	GM O&S	In Progress		February 2023

Meeting Date	Resolution / Action Requested	Action	Status	Comments	Completion Date
R&S 13.12.22	<b>Monthly Report – Regulatory and Planning Services</b> Staff to consult with landowners of land identified under the National Policy Statement for highly productive land.	GM R&P	Pending	Regional Council are still to map out the highly productive land. Once completed, staff will identify if there are any highly productive land within Kawerau and its District Plan.	Awaiting work from Regional Council.
R&S 13.12.22	<b>Monthly Report – Economic &amp; Community Development</b> Staff to provide Elected Members with a breakdown of the funding from the Youth Fund Officials meeting with the Youth Council.	ECDM	In Progress	The Ministry of Youth Development (MYD) are yet to release details of the successful recipients.	Awaiting release from MYD

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OC: Ordinary Council      EC: Extraordinary Council      A&R: Audit & Risk Committee      R&S: Regulatory & Services Committee  
 GMF&CS: Group Manager, Finance & Corporate Services      A&R: Audit & Risk Committee      R&S: Regulatory & Services Committee  
 GMR&P: Group Manager, Regulatory & Planning      GMR&P: Group Manager, Operations & Services  
 ECMD: Economic & Community Development Manager      C&EM: Communication & Engagement Manager

**Completed Items**

Meeting Date	Action	Comments
R&S 16.08.22	<b>Funding Applications – Christmas in the Park (CITP) 2022</b> The Committee requested that a letter of acknowledgement be sent to Chris Powley.	A letter was sent to Chris Powley. All funding applications were completed and approved
R&S 15.11.22	<b>Monthly Report – Economic and Community Development</b> Staff to provide Council with confirmation for the total amount for the MYD Youth Development funding.	MYD advised: \$21.8 million, over 2.5 years, is available to distribute through this request for Proposal (RFP) to successful respondents for youth development programmes delivered between January 2023 and June 2025. Below is a breakdown of the funding streams:

		<ul style="list-style-type: none"> <li>Youth Development Opportunities (\$21.8 million across 2.5 years)</li> <li>[Youth Development] Full-Time Equivalent Youth Worker/Practitioner Pilot (\$2.5 million across 2.5 years)</li> <li>Youth Enterprise Opportunities (\$4.0 million across 2.5 years)</li> <li>Youth Development Grant Fund (\$0.5 million per fiscal year)</li> </ul>
R&S 16.08.22	<p><b>Monthly Report - Finance and Corporate Services</b></p> <p>Report on Waste Management fees to be presented to Council.</p> <p>Dates for next Creative New Zealand Grants Scheme meeting to be confirmed.</p>	<p>A report was presented to Council on 13 December.</p> <p>The first meeting of the CNZ committee was Friday 9 December and subsequent meetings for the year were confirmed at that meeting.</p>
Conf. Council 29.11.22	<p><b>Confidential: Extraordinary Council</b></p> <p>Staff to email the latest plans of the Rangī Delamere Pavilion to Elected Members.</p>	Completed.
R&S 13.12.22	<p><b>Monthly Report – Finance and Corporate Services</b></p> <p>Staff to relay to the community the rubbish collection process.</p>	<p>Staff have regularly communicated to the community regarding the kerbside recycling and rubbish collections.</p> <p>The increased fees for industrial and commercial users was communicated via Council's newsletter, website, social media and also via a media release.</p>



**Meeting** Council  
**Meeting Date:** 22 February 2023  
**Subject:** Her Worship the Mayor's Report  
**File No.** 101400

**1 Purpose**

The purpose of this report is to outline meetings, functions and events that I have hosted, attended and/or participated in from the period Monday 23 January to Tuesday 14 February 2023.

January

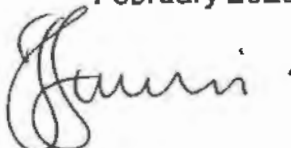
- 24 Tarawera High School Attendance Campaign  
Catch-up with John O'Brien of Putauaki Trust / Maori Investment Ltd
- 25 Council Workshop on RMA Reform and Code of Conduct Review
- 26 Meeting with Mayors Taskforce Coordinator  
Meeting with Andre van Schalkwyk re: Potjie Kos Festival
- 31 Eastern BOP meeting to discuss Triennium Agreement, Whakatane DC  
Fortnightly Catch-up with Mayors Taskforce Coordinator

February

- 1 Meeting with CEO and Economic & Community Development Manager to discuss Youth Development Strategies including Kawerau Youth Council and TUIA Programme
- 3 Regional Land Transport Plan 2024-34 Development – Initial Briefing via Zoom
- 7 Meeting with Creative Communities Administrator  
Catch-up with Mayors Taskforce Coordinator
- 8 Regulatory & Services Committee  
Meeting with Lester Murfitt of Kowhai Park Body Corp re: Stoneham Park Precinct Development
- 13 Monthly Iwi Liaison Meeting with Te Haukākawa (Boycie) Te Rire  
Audit & Risk Committee Meeting
- 14 Bay of Plenty Civil Defence Emergency Management Group Joint Committee Briefing, via Zoom  
Fortnightly Catch-up with Mayors Taskforce Coordinator

**2 RECOMMENDATION**

That Her Worship the Mayor's report for the period Monday 23 January to Tuesday 14 February 2023 be received.



Faylene Tunui  
**Mayor**





**Meeting:** Council

**Meeting Date:** 22 February 2023

**Subject:** Annual Plan Performance for the six months ended 31 December 2022

**File No.:** 110400

## 1 Purpose

The purpose of this report is to review Council's financial and non-financial performance for the first six months of the year compared to the Annual Plan budget for 2022/23.

Comments are provided where expenditure/revenue is likely to vary from budget, or the performance target is unlikely to be achieved for the year.

## 2 Financial Performance

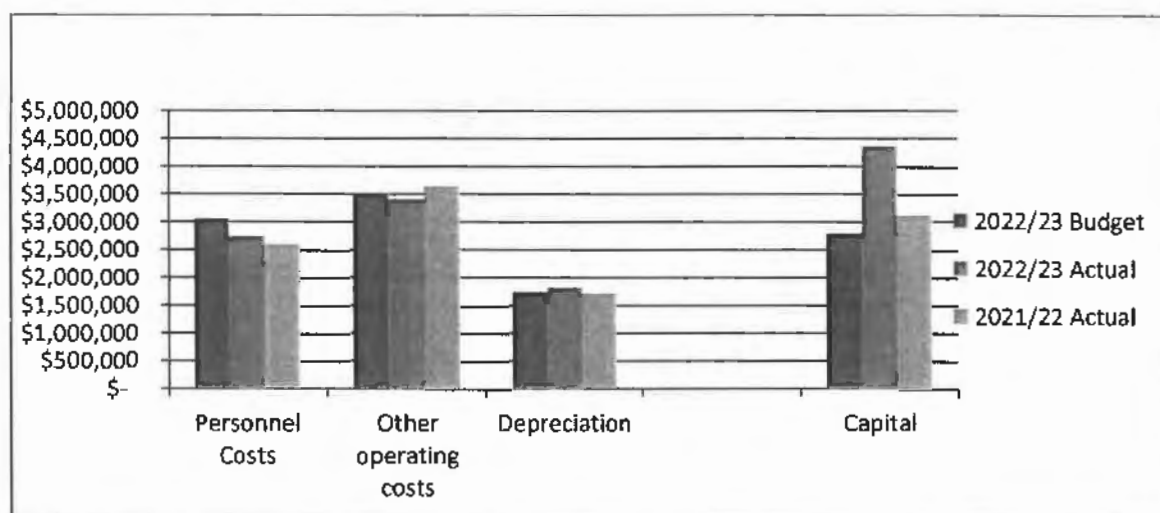
### 2.1 Statement of Comprehensive Revenue and Expense

The following table shows Council's financial performance for the 6 months compared to the adopted annual budget. The capital budget for 2022/23 has been amended to include the carried forward figures as well as any budget amendments approved by Council. NB: There will be timing differences for some revenue and expenditure such as grants as well as subscriptions which generally occur at the beginning of the year.

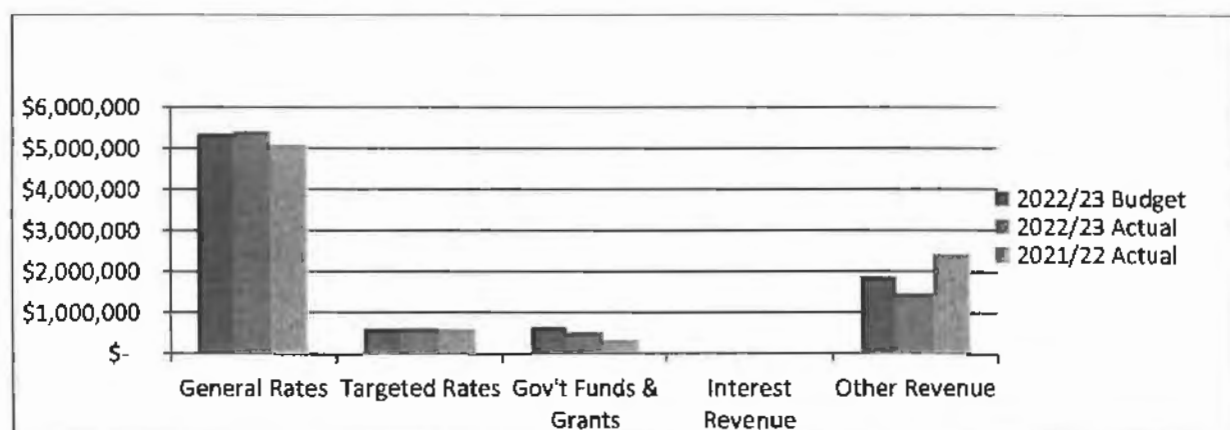
	Adopted Budget	Actual 31-12-2022	Comments
<b>Revenue:</b>	<b>\$</b>	<b>\$</b>	
Rates	11,953,620	6,004,196	
Subsidies and Grants	1,075,800	515,026	
Interest Revenue	34,390	14,868	
Fees and Charges	3,610,500	1,411,398	Includes additional refuse fees
Other Revenue	70,000	16165	Petrol Tax
<b>Total Revenue</b>	<b>16,744,310</b>	<b>7,961,652</b>	
<b>Expenditure:</b>			
Personnel Costs	6,111,890	2,734,316	Some staff vacancies
Depreciation	3,316,270	1,811,387	
Finance Costs	110,000	296	
Other Expenses	6,967,200	3,397,745	Additional expenditure for refuse disposal and Mayors Taskforce for Jobs
<b>Total Expenditure</b>	<b>16,505,360</b>	<b>7,943,744</b>	
<b>Surplus (Deficit)</b>	<b>238,950</b>	<b>\$17,908</b>	
	<b>Revised Budget</b>	<b>Actual 31-12-22</b>	
<b>Capital</b>	<b>11,066,253</b>	<b>4,351,972</b>	

Council's expenditure and revenue for the year to date are shown in the graphs below, compared to the budget and expenditure/revenue for 2022/23.

## Expenditure to 31 Dec 2022



## Revenue to 31 Dec 2022



## 2.2 Statement of Financial Position

The following table shows Council's financial position at 31 December 2022 compared to the budget.

The financial position does not include all accruals for receivables and payables.

	Budget @ 30/6/2023	Actual at 31 December 2022	Comments
<b>Assets:</b>			
Current assets:			
Cash & cash equivalents	\$5,074,310	\$2,811,908	
Receivables	\$1,720,340	\$1,230,210	
Inventories	\$417,910	\$1,305,973	Includes sections
Non-current assets:			
Property, plant and equipment	\$96,502,730	\$109,172,874	
Intangible assets	\$60,240	\$123,108	
Other financial assets	\$36,250	\$36,252	
<b>Total Assets</b>	<b>\$103,811,780</b>	<b>\$114,680,325</b>	

	Budget @ 30/6/2023	Actual at 31 December 2022	Comments
<b>Liabilities:</b>			
Current liabilities:			
Payables, provisions & employee benefits	\$3,565,870	\$1,960,703	
Borrowing	\$16,500	\$799	
Non-current liabilities:			
Provisions & employee benefits	\$242,460	\$216,384	
Borrowing	\$2,034,000	\$2,000,000	
Deferred Revenue/Resident's Liability	\$10,634,600	\$5,616,330	
<b>Total Liabilities</b>	<b>\$16,493,430</b>	<b>\$9,794,217</b>	
<b>Ratepayers Equity</b>	<b>\$87,318,350</b>	<b>\$104,886,108</b>	
<b>Total liabilities &amp; ratepayers equity</b>	<b>\$103,811,780</b>	<b>\$114,680,325</b>	

### 2.3 Statement of Cashflow

The cashflow statement shows a decrease of \$854k in Council's cash position.

	Budget @ 30/6/2023	Actual to 30 Dec 2022	Comments
<b>Cashflow from operating activities:</b>			
Rates	\$11,970,010	\$6,056,304	
Subsidies	\$1,075,800	\$761,141	
Fees & Charges	\$3,680,500	\$1,011,080	
Interest Received	\$34,440	\$14,868	
Payments to suppliers and employees	\$(12,497,310)	\$(6,341,696)	
Interest paid on debt	\$(110,000)	\$(296)	
<b>Net cashflow from Operations</b>	<b>\$4,153,390</b>	<b>\$1,501,401</b>	
<b>Net cashflow from investing:</b>			
Disposal of Assets/Contributions	\$3,986,000	\$0	11 x retirement units
Property, Plant & Equipment	\$(8,850,360)	\$(4,351,972)	
<b>Net cashflow from investing:</b>	<b>\$(4,864,360)</b>	<b>\$(4,351,972)</b>	
<b>Net cashflow from financing:</b>			
Loans raised	2,034,000	\$2,000,000	Loan raised in December
Debt repayment	\$(11,500)	\$(4,245)	
<b>Net cash inflow/(outflow)</b>	<b>\$1,311,530</b>	<b>\$(854,816)</b>	
Opening balance (1/7)	\$3,762,780	\$3,666,724	
<b>Closing cash balance</b>	<b>\$5,074,310</b>	<b>\$2,811,908</b>	

### 3 Non-Financial Performance

The following is a summary of the non-financial targets performance to date:

Activity	2021/22 No. of Targets	On target to achieve	2021/22 Achievement Rate
Democracy	5	4	33%
Economic & Community Development	6	6	80%
Environmental Services (excludes N/As)	14	12	50%
Roading (including Footpaths)	9	5	57%
Stormwater	3	3	100%
Water Supply	12	11	83%
Wastewater	7	7	43%
Solid Waste Management	5	5	50%
Leisure and Recreation	21	18	58%
<b>TOTAL</b>	<b>82</b>	<b>71</b>	<b>62%</b>

### 4 Capital Expenditure

The following is Council's capital budget (including carry forwards and amendments) and expenditure for the first 3 months.

Activity	2022/23 Budget	Actual	Comments
Economic & Community Development	\$3,311,600	\$2,886,882	Residential developments – Porritt Glade
Roading	\$1,069,000	\$277,054	
Stormwater	\$390,000	\$52,226	Pipe renewal
Water Supply	\$2,843,639	\$456,037	Pipe renewal
Wastewater	\$1,411,000	\$138,588	WW pipe renewals
Solid Waste	\$50,000	\$3,127	Recycle Bins
Leisure & Recreation	\$1,558,894	\$341,525	Pool & Library renewals
Plant, Depot and Office	\$432,120	\$196,534	New plant/vehicles, PCs & office building renewals
<b>Total</b>	<b>\$11,066,253</b>	<b>\$4,351,973</b>	

### 5 RECOMMENDATION

That the report "Annual Plan Performance for the year ended 31 December 2022" be received.



Russell George, CA, MBA  
**Chief Executive Officer**

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## ACTIVITY GROUP 1: DEMOCRACY

### Funding Impact Statement

	Budget	Actual
Operating funding – Rates & Charges (A)	816,604	632,777
Applications of operating funding – Staff & Suppliers (B)	798,490	490,585
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>18,114</b>	<b>142,193</b>
Sources of capital funding (C)	0	0
Less (D):		
Renewals/capital	0	0
Increase/(decrease) in reserves	18,114	142,193
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(18,114)</b>	<b>(142,193)</b>
<b>Funding balance ((A - B) + (C - D))</b>	<b>0</b>	<b>0</b>

Includes MTFJs expenditure and funding

### Statement of Service Provision

<b>Levels of Service</b>	<b>Measures</b>	<b>Target</b>	<b>Status</b>	<b>Comment</b>
Financial management is prudent, effective and efficient.	Percentage completion of the annual work programme.	>90%	On target	There are 33 significant projects in the annual work programme most of which will be completed later in the year
Council informs the Community about key issues and activities.	Number of newsletters.	At least 20	On target	12 newsletters were published to 31 Dec 2022
Council encourages the Community to contribute to Council decision-making.	Provision of a public forum at public Council and Committee meetings.	Every meeting	Not achieved	Public forums were not provided at council and committee meetings (for the first 3 months) due to COVID restrictions.
The community has confidence in the quality of democracy and representation provided by elected members	Community satisfaction with the Mayor and councillors	>85%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023
Financial management is prudent, effective and efficient	Community satisfaction with way rates are spent	90%	Achievement anticipated	

## ACTIVITY GROUP 2: ECONOMIC AND COMMUNITY DEVELOPMENT

### Funding Impact Statement

	Budget	Actual	Comment
Operating funding – Rates & Charges (A)	3,116,842	683,024	No section sales to date
Applications of operating funding – Staff & Suppliers (B)	2,582,650	942,193	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>534,192</b>	<b>(259,169)</b>	
Sources of capital funding (C)	4,020,000	0	Proceeds from unit sales (x11)
Less (D):			
Renewals/capital	3,311,600	2,886,882	Development of retirement village (11 units)
Increase/(decrease) in reserves	1,242,592	(3,146,050)	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(534,192)</b>	<b>259,169</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>\$0</b>	<b>\$0</b>	

### Statement of Service Provision

Levels of Service	Measures	Target	Status	Comment
<b>Economic Development</b> Council is actively involved in the Eastern Bay of Plenty Regional Economic Development Agency.	Representation at Trustee Meetings.	Representation at 90% of Trustee meetings.	On target	CEO or Economic & Community Development Manager has attended all trustee meetings to date
Council provides a local information centre.	Number of days open each year. Community satisfaction with I-Site	At least 360 days. >83%	On target Achievement anticipated	The i-SITE was open 183/184 days. The community satisfaction survey is done every 3 years and will be carried out in 2023
Council encourages positive perceptions of Kawerau by supporting local events.	At least 1 event <sup>1</sup> held per month from February to December.	At least 1 event held per month from February to December.	On target	Events have been held in each month to date.
Council supports young people to develop skills and attitudes needed to take a positive part in society.	Youth Council in place. Satisfaction with youth council collaboration from collaborating groups	Annual appointments made. >78% satisfaction	On target Achievement anticipated	Current Youth Council appointed April 2022. Survey of collaborating groups undertaken in May/June 2023.

<sup>1</sup> An 'event' is a public gathering of people for a distinctly defined celebratory, educational, commemorative or exhibition purpose. It occurs for a limited time and may be repeated on a cyclical basis (e.g. annually) but is not regularly scheduled (e.g. regular organised Saturday sport, a series of regular meetings, or ongoing gallery or commercial art exhibitions). Conferences are also considered to be events.

## ACTIVITY GROUP 3: ENVIRONMENTAL SERVICES

### Funding Impact Statement

Both revenue and expenditure are on target for these activities.

	Budget	Actual	Comment
Operating funding – Rates & Charges (A)	1,326,121	700,253	includes dog fees 2022/23
Applications of operating funding – Staff & Suppliers (B)	1,221,860	536,086	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>104,261</b>	<b>164,166</b>	
Sources of capital funding (C)	0	0	
Less (D):			
Renewals/capital	0	0	
Increase/(decrease) in reserves	104,261	164,166	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(104,261)</b>	<b>(164,166)</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>\$0</b>	<b>\$0</b>	

### Statement of Service Provision

Levels of Service	Measures	Target	Status	Comment
<b>Building Control</b>				
Service users consider Council's Building Control Activity to be effective	Satisfaction survey of service users - building consents processes	>90%	Achievement anticipated	2/2 satisfied to date
	Satisfaction survey of service users - building inspection processes	>90%	Achievement Anticipated	6/6 satisfied to date
Council provides in-house building consent, inspection and approval services	Bi-annual Building Consent Authority accreditation re-assessment	Accreditation and registration retained.	Achievement Anticipated	BCA accreditation retained
Relevant Kawerau buildings comply with Building Warrant of Fitness requirements.	Buildings audited for BWOF requirements	35%	Achievement Anticipated	Inspections undertaken later in the year

Levels of Service	Measures	Target	Status	Comment
<b>Environmental Health</b>				
Registered premises comply with statutory requirements.	Audit of food premises operating Food Control Plans	100% annually.	Achievement anticipated	5/29 inspections to date
Premises licenced under the Sale and Supply of Liquor Act 2012 comply with the license conditions.	Inspection of registered premises for compliance with relevant standards.	100% annually.	Achievement Anticipated	0/6 inspections to date
Council responds to complaints and service requests for environmental health conditions (noise, nuisance and conditions/health risks) complaints.	Inspection of licenced premises for compliance	100% annually.	Achievement Anticipated	Inspections commenced October 2022
	Response to noise complaints.	80% within 20 minutes and 98% within 30 minutes.	Achievement Anticipated	88.8% within 20 minutes 95.4% within 30 minutes
	Response to other environmental health service requests/complaints.	100% within 1 working day.	Not achieved	1/2 complaints (July) exceeded 1 working day.
<b>Dog Registration and Control</b>				
Service requests about public nuisance and intimidation by uncontrolled dogs are actioned.	Adherence to complaint response process to respond, investigate and record the complaint and advise complainant of progress or the outcome within 24 hours.	80% within 20 minutes and 98% within 30 minutes.	Unlikely to be achieved	88.8% within 20 minutes 91% within 30 minutes (impacted by staff shortage)
Council maintains community satisfaction levels for the dog control service	Community satisfaction with Dog Control Service	>77%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023
<b>Civil Defence</b>				
Council provides community education initiatives to increase public awareness and readiness for local and regional hazards	% of residents that have an understanding of what the consequences would be if a disaster struck their area	>80%	Achievement Anticipated	Survey undertaken every 2 years
Council will maintain capability to effectively respond to an emergency	% of residents that have taken any action to prepare for an emergency	>80%	Achievement anticipated	Survey undertaken every 2 years
	Council is prepared for and can respond to an emergency	>60%	Achievement anticipated	Ongoing identification of staff and training.



## ACTIVITY GROUP 4: ROADING

### Funding Impact Statement

	Budget	Actual	Comment
Operating funding – Rates & Charges (A)	1,476,589	623,296	
Applications of operating funding – Staff & Suppliers (B)	1,110,520	475,192	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>366,069</b>	<b>148,104</b>	
Sources of capital funding (C)	790,500	138,356	
Less (D):			
Renewals/capital	1,129,000	277,054	Renewals mostly done in 2 <sup>nd</sup> half of year
Increase/(decrease) in reserves	27,569	9,406	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(366,069)</b>	<b>(148,104)</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>\$0</b>	<b>\$0</b>	

### Capital Renewals

Item	Budget	Actual	Comment
Kerb replacement	\$80,000	0	
Street light renewals and upgrades	\$32,000	\$67,025	
Reseals	\$130,000	0	
Pavement treatment	\$90,000	0	
Minor safety improvements (speed humps)	\$46,000	\$400	
Footpath repairs/Paving	\$155,000	\$117,049	
Lane realignment	\$160,000	0	
Bins/seating/music system/lights	\$24,400	\$158	
Town centre video cameras	\$6,800	\$6,727	
Town Centre Upgrade	\$330,000	0	
Carparks and turnarounds	\$74,800	\$85,695	
<b>Total</b>	<b>\$1,129,000</b>	<b>\$277,054</b>	

## Statement of Service Provision

Levels of Service	Measures	Target	Status	Comment
<b>Roading</b>				
Council provides a network of roads which facilitates the safe movement of people and vehicles around the District.	The change from the previous financial year in the number of fatalities and serious injury crashes on the local road network, expressed as a number.	Increase of zero or less.	Achievement anticipated	No crashes on the Kawerau District roading network to date, which resulted in a serious injury.
Road Quality.	The average quality of ride on a sealed local road network, measured by smooth travel exposure. <sup>2</sup>	Not less than 95%.	Achievement anticipated	Road Roughness Survey undertaken in June 2023
Road maintenance.	The percentage of the sealed local road network that is resurfaced.	Between 5 and 6.5 % per annum.	Unlikely to achieve	Resealing funding insufficient to resurface >5% - to be carried out in March/April 2023
Response to service requests. (Roads)	The percentage of customer service requests relating to roads to which Council responds within the time frame specified.	Potholes: 90% within 14 days and 100% within 28 days.	Not achieved.	7 potholes reported and 3 exceeded 28 days to repair
		Streetlights: 90% within 14 days and 100% within 28 days.	Not achieved.	30 streetlight outages reported, 26 responded within 14 days (90%), 28 responded within 28 days (93.3%) - 2 exceeded 28 days
Council maintains community satisfaction levels for roading activity	Community satisfaction with roading assets	>90%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023

<sup>2</sup> The percentage of Vehicle Kilometres Travelled in the District exposed to roads with roughness less than the threshold for urban roads set by the National State Highway Strategy

Levels of Service	Measures	Target	Status	Comment
<b>Footpaths</b>				
Footpath condition	Percentage of footpaths that fall within the level of service or service standard for the condition of footpaths set out in the Long Term Plan.	95%. <sup>3</sup>	Achievement anticipated	District-wide independent survey undertaken in last quarter of year.
Response to service requests.	The percentage of customer service requests relating to footpaths to which Council responds within the time frame specified.	100% within 14 days.	Not achieved	9 footpaths reported - 3 footpaths exceeded 14 days to make safe due to contractor unavailability
Council provides an appropriate network of footpaths for pedestrian use	Community satisfaction with footpaths	>75%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023

<sup>3</sup> Against a standard of no more than 20 lips in the 70 km of footpaths (each lip above 20 mm equates to three metres of footpath needing replacement).

## ACTIVITY GROUP 5: STORMWATER

### Funding Impact Statement

	Budget	Actual	Comment
Operating funding – Rates & Charges (A)	232,115	81,099	
Applications of operating funding – Staff & Suppliers (B)	85,430	5,980	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>146,685</b>	<b>75,119</b>	
Sources of capital funding (C)	166,050		
Less (D):			
Renewals/capital	390,000	52,226	
Increase/(decrease) in reserves	(77,265)	22,894	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(146,685)</b>	<b>(75,119)</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>\$0</b>	<b>\$0</b>	

### Capital Renewals

Item	Budget	Actual	Comment
Stormwater pipe renewals	\$390,000	\$52,226	Pipe renewal

### Statement of Service Provision

Levels of Service	Measures	Target	Status	Comment
Council provides an effective stormwater network which removes stormwater to protect dwellings from flooding (System adequacy)	The number of flooding events that occur in the District. For each flooding event, the number of habitable floors affected.	No more than 0	On target	There were no flooding events to date
Council provides an effective stormwater network which removes stormwater to protect dwellings from flooding (Customer satisfaction)	The number of complaints received by Council about the performance of its stormwater system.		Not applicable. <sup>4</sup> Not applicable. <sup>5</sup>	

<sup>4</sup> The mandatory measure per 1,000 properties connected to Council's stormwater system is not applicable, because properties in Kawerau are not permitted by building consents to connect to the stormwater system.

<sup>5</sup> The mandatory measure per 1,000 properties connected to Council's stormwater system is not applicable, because properties in Kawerau are not permitted by building consents to connect to the stormwater system.

Levels of Service	Measures	Target	Status	Comment
Response times	The median response time to attend a flooding event.	Less than one hour.	On target.	There were no flooding events to date.
Discharge compliance.	Compliance with Council's resource consents for discharge from its stormwater system, measured by the number of: <ul style="list-style-type: none"> <li>• abatement notices</li> <li>• infringement notices</li> <li>• enforcement orders, and</li> <li>• convictions,</li> </ul> received by Council in relation those resource consents.	No notices, orders or convictions	On target.	Council has complied with all the conditions of its resource consent to date

## ACTIVITY GROUP 6: WATER SUPPLY

### Funding Impact Statement

Both revenue and expenditure are on target.

	Budget	Actual	Comment
Operating funding – Rates & Charges (A)	1,630,777	841,000	
Applications of operating funding -- Staff & Suppliers (B)	875,370	376,767	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>755,407</b>	<b>464,233</b>	
Sources of capital funding (C)	2,000,000	\$2,000,000	Loan
Less (D):			
Renewals/capital	2,781,000	456,037	
Increase/(decrease) in reserves	(25,593)	2,008,196	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(755,407)</b>	<b>(464,233)</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>\$0</b>	<b>\$0</b>	

### Capital Renewals

Item	Budget	Actual	Comment
Pipework replacement	\$2,130,000	\$426,391	
Toby replacement	\$150,000	\$26,610	
Valve refurbishment	\$42,000	\$1,173	
UV Tube Replacement	\$17,000	0	
Pump Refurbishment	\$222,000	\$1,863	
Reservoir, Headworks & Hydrants	\$220,000	0	
<b>Total</b>	<b>\$2,781,000</b>	<b>\$456,037</b>	

## Statement of Service Provision

Levels of Service	Measures	Target	Status	Comment
Customer satisfaction.	The total number of complaints received about any of the following: a) drinking water clarity b) drinking water taste c) drinking water odour d) drinking water pressure or flow e) continuity of supply, and f) Council's response to any of these issues expressed per 1,000 connections to the networked reticulation system.	a) No more than 4 per 1,000 connections b) No more than 2 per 1,000 connections c) No more than 1 per 1,000 connections d) No more than 2 per 1,000 connections e) No more than 2 per 1,000 connections f) 0 per 1,000 connections	Unlikely to achieve	Council has 2,880 connections. To date Council received (per 1,000): a) 3.1 water clarity complaints b) 0 water taste complaints c) 0 water odour complaints d) 0.7 water pressure complaints e) 0 continuity of supply complaints f) 0 complaints regarding Council's responses
Safety of drinking water.	The extent to which Council's drinking water supply complies with: a) part 4 of the 2008 drinking-water standards (bacteria compliance criteria), and b) part 5 of the 2008 drinking-water standards (protozoal compliance criteria).	a) No more than 1 instance of bacteria criteria non-compliance, and b) No instances of protozoal criteria non-compliance.	a) On target b) On target	There no instances of bacteria or protozoal non-compliance to date
Maintenance of the reticulation network.	The percentage of real water loss from the Council's networked reticulation system, measured using the minimum night flow (MNF) analysis method contained in the DIA Guidelines.	<200 litres per connection per day <sup>6</sup>	On target	Average water loss for half year is 160 litres per connection per day
Demand management.	The average consumption of drinking water per day per resident within the district.	< 0.6 m <sup>3</sup>	On target	The average consumption to 31 December is 0.4 m <sup>3</sup> per person per day.
Fault response times.	Where the local authority attends a call-out in response to a fault or unplanned interruption to its networked reticulation system, the median response times are:			
	a) attendance for urgent call-outs: from the time that Council receives notification to	Less than two hours.	On target	There were no urgent call outs received to date

<sup>6</sup> Measured using the minimum night flow (MNF) analysis method contained in the DIA Guidelines.

Levels of Service	Measures	Target	Status	Comment
	the time that service personnel reach the site, and			
	b) resolution of urgent call-outs: from the time that Council receives notification to the time that service personnel confirm resolution of the fault or interruption.	Less than 8 hours.	On target	N/A
	c) attendance for non-urgent call-outs: from the time that Council receives notification to the time that service personnel reach the site.	24 hours.	On target	70 non-urgent call outs and median response time 25 minutes
	d) resolution of non-urgent call-outs: from the time that Council receives notification to the time that service personnel confirm resolution of the fault or interruption	48 hours.	On target	Median resolution was 2 hours 7 minutes.
The water supply is reliable and has minimal disruptions.	Number of unplanned shutdowns - reticulation.	No more than 12.	On target	1 shutdown occurred to date.
	Number of unplanned shutdowns - pump stations.	None.	On target	No unplanned shutdowns of the pump stations to date.
	Number of water main breaks.	No more than 8.	On target	1 water main breaks occurred to date.
Water is sourced with minimal environmental effects.	Compliance with BOP Regional Council water supply resource consents as reported in Annual Consents and Compliance Field Sheet.	Compliance <sup>7</sup>	Achieved to date	Complying with old consent.
Council provides a quality water supply	Community satisfaction with water supply	>89%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023

<sup>7</sup> BOPRC inspection reports state either compliance or non-compliance.



## ACTIVITY GROUP 7: WASTEWATER

### Funding Impact Statement

	Budget	Actual	Comment
Operating funding – Rates & Charges (A)	1,863,283	982,281	
Applications of operating funding – Staff & Suppliers (B)	1,290,700	602,347	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>572,583</b>	<b>379,934</b>	
Sources of capital funding (C)	0	0	
Less (D):			
Renewals/capital	1,473,639	138,588	
Increase/(decrease) in reserves	(901,056)	241,346	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(572,583)</b>	<b>(379,934)</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>\$0</b>	<b>\$0</b>	

### Capital Renewals

Item	Budget	Actual	Comment
Pipework Renewal	\$790,000	\$39,174	
Pump refurbishment	\$96,000	\$567	
Milliscreen bearings/replacement	\$75,000	\$83,014	
Wastewater treatment plant upgrade	\$510,000	\$15,833	
Reticulation Replacement	\$62,639	0	
<b>Total</b>	<b>\$1,473,639</b>	<b>\$138,588</b>	

## Statement of Service Provision

Levels of Service	Measures	Target	Status	Comment
Customer satisfaction.	The total number of complaints received about any of the following: a) sewage odour b) sewerage system faults c) sewerage system blockages, and d) Council's response to issues with its sewerage system, (expressed per 1,000 connections to the sewerage system).	a) No more than 1 per 1,000 connections b) No more than 15 per 1,000 connections c) No more than 15 per 1,000 connections d) 0 per 1,000 connections	On target	Council has 2,880 connections a) 0 odour complaints b) 0 connection faults reported c) 0 blockages reported d) No complaints about response to service.
System adequacy.	The number of dry weather sewage overflows from Council's sewerage system, expressed per 1,000 connections to that sewerage system.	0 per 1,000 connections to the sewerage system.	On target	No dry weather overflows occurred to date
	Where Council attends to sewage overflows resulting from a blockage or other fault in its sewerage system, the median response times are:			
Fault response times.	a) attendance time: from the time that Council receives notification to the time that service personnel reach the site, and b) resolution time: from the time that Council receives notification to the time that service personnel confirm resolution of the blockage or other fault.	Less than 1 hour.	Achieved to date	0 sewage overflows occurred to date
Council provides a reliable domestic wastewater collection and disposal service.	Number of disruptions to wastewater collection service.	Less than 8 hours.	Achievement anticipated	0 sewage overflows
Discharge compliance.	Compliance with resource consents for discharge from Council's sewerage system measured by the number of: a) abatement notices b) infringement notices c) enforcement orders, and d) convictions,	No more than 50.	Achieved to date	There have been no disruptions to the wastewater collection service.
		No notices, orders or convictions.	On target	Council has not received any infringement notices to date.

Levels of Service	Measures	Target	Status	Comment
	received in relation those resource consents.			
The wastewater treatment plant operates effectively.	Compliance with BOPRC wastewater treatment plant resource consents as reported in annual Consents and Compliance Field Sheet.	Compliance. <sup>8</sup>	Achieved to date	Council has complied with all conditions of the resource consent.
Council provides a domestic wastewater collection and primary treatment system	Community satisfaction with wastewater disposal	>96%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023

<sup>8</sup> BOPRC inspection reports state either compliance or non-compliance.

## ACTIVITY GROUP 8: SOLID WASTE

### Funding Impact Statement

Both revenue and expenditure are likely to exceed the budget due to additional waste volumes.

	Budget	Actual	Comment
Operating funding – Rates & Charges (A)	2,132,966	1,243,987	
Applications of operating funding – Staff & Suppliers (B)	1,903,420	1,85,110	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>229,546</b>	<b>(41,132)</b>	
Sources of capital funding (C)	0	0	
Less (D):			
Renewals/capital	50,000	3,127	Recycling bins
Increase/(decrease) in reserves	179,546	(44,259)	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(229,546)</b>	<b>41,132</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>\$0</b>	<b>\$0</b>	

### Statement of Service Provision

Levels of Service	Measures	Target	Status	Comment
<b>Refuse Collection and Disposal</b>				
Council's refuse collection and disposal services meet the needs of the Kawerau Community and help maintain public health and a clean environment.	Level of compliance with BOP Regional Council refuse disposal resource consents as reported in annual Consents and Compliance Field Sheet.	Compliance. <sup>9</sup>	On target	No notices, abatement notices, enforcement orders or convictions.
Provision of a cost effective refuse collection and disposal service that will encourage a healthy, clean and tidy district	Community satisfaction with refuse collection Community satisfaction with refuse disposal	>94% >74%	Achievement anticipated Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023

<sup>9</sup> BOPRC inspection reports state either compliance or non-compliance

Levels of Service	Measures	Target	Status	Comment
<b>Zero Waste (Recycling)</b>				
Material that would otherwise go to landfill as household refuse is collected by the recycling collection service.	Average amount of recyclable material collected from each household.	No less than 178 kg per annum.	On target	2,880 households. Average is 92 kg per household to date
Council's recycling services meets the needs of the Kawerau community	Community satisfaction with recycling service	>92%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023

## ACTIVITY GROUP 9: LEISURE AND RECREATION

### Funding Impact Statement

Costs and revenue are on track and it is expected to be close to budget at year end

	Original Budget	Actual	Comment
Operating funding – Rates & Charges (A)	4,240,434	2,250,060	
Applications of operating funding – Staff & Suppliers (B)	3,569,540	1,706,593	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>670,894</b>	<b>543,467</b>	
Sources of capital funding (C)	0	0	
Less (D):			
Renewals/capital	1,593,714	357,180	
Increase/(decrease) in reserves	(922,820)	186,287	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(670,894)</b>	<b>(543,467)</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>\$0</b>	<b>\$0</b>	

### Capital Renewals

Item	Budget	Actual	Comment
Library:			
Collection renewals	\$74,400	\$25,984	Replacement books
Equipment, Fixtures and Fittings	\$1,990	0	
Building	\$12,120	\$6,550	
Swimming Pool:	\$297,254	\$193,864	Entrance, clubrooms & office
Recreation Centre	\$66,700	\$4,778	
Town Hall	\$22,700	0	
Concert Chambers	\$10,400	\$9,874	
Sports fields and amenity buildings	\$1,017,700	\$37,899	Netball & athletics pavilions
Passive Reserves	\$54,950	\$78,231	Boundary fences, carparks and outlet
Playgrounds	\$35,500	0	Playground renewal
<b>Total</b>	<b>\$1,593,714</b>	<b>\$357,180</b>	

## Statement of Service Provision

Levels of Service	Measures	Target	Status	Comment
<b>Library</b>				
The library is accessible to the public.	Percentage of the population who are active members of the library. <sup>10</sup>	>25%	Unlikely to achieve	Only 1,402 (18.7%) of the population are active members of the library. COVID has impacted on membership
	New items per 1,000 population added to the collection each year.	>500	On target	1,443 new items (200 per 1,000 population) were added for the 6 months to 31 December 2022
	Community satisfaction with the library	>86%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023
<b>Museum</b>				
Council provides a museum service which reflects Community needs.	Number of exhibitions held.	6	On target	3 exhibitions held to date.
	Number of objects accessioned to the museum collection per annum.	200	On target	133 objects accessioned into the museum collection.
	Community satisfaction with the museum	>62%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023
<b>Swimming Pools</b>				
Swimming pool water meets water quality standards.	Level of compliance with standards.	Full compliance in 95% of tests.	Achieved to date.	97% compliance of tests done.
Council provides a Swimming Pool Complex which is accessible to the Community.	Weeks open per year.	At least 48.	Not achieved	Pool has had to be closed some weekends due to staff shortages
	Community satisfaction with the swimming pool	>93%	Achievement anticipated	The community satisfaction survey is done every 3 years carried out in 2023
<b>Public Halls and Facilities</b>				
Four Community halls are available for hire: Ron Hardie Recreation Centre, Town Hall, Concert	Number of weeks public halls available for hire	Each hall is available for 50 weeks. <sup>11</sup>	On target	All halls were available for 26 weeks to 31 December

<sup>10</sup> Those who have used library services in the past two years.

<sup>11</sup> Each hall is closed for scheduled maintenance for up to two weeks per year.

Levels of Service	Measures	Target	Status	Comment
Chambers and the Bert Hamilton Hall.				
Clean public toilets are provided in the central business district.	Council provides town centre public toilets.	Open at least 360 days.	On target	The town centre public toilets were open 185/185 days
Council provides public halls and facilities which reflects community needs	Community satisfaction with public halls	>81%	Achievement anticipated	The community satisfaction survey is done every 3 years carried out in 2023
	User satisfaction with the public halls	>93%	Achievement anticipated	
	Community satisfaction with public toilets	>70%	Achievement anticipated	
	User satisfaction with the public toilets	>87%	Achievement anticipated	
<b>Parks and Reserves</b>				
Playing surfaces at sports fields are maintained to the requirements of the codes for which they are used.	Implementation of NZ Sports Turf Institute advisory reports.	100%	Achievement anticipated	NZ Sports and Turf inspected the sports fields in July 2022 and recommendations to be implemented
Bedding displays are attractive and updated to suit the season.	Number of bedding displays.	2 (1 summer and 1 winter).	Achievement anticipated	Summer displays were planted in October 2022 and the winter displays to be planted in May.
Council provides parks and reserves which meets the community's need	Community satisfaction with parks and reserves	>93%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023
Playground equipment is safe for children to use.	Monthly inspections of all playground equipment.	12 inspections conducted.	Not achieved	4 inspections undertaken to date - 2 missed due to staff shortage.
	Remediation of all identified <sup>12</sup> problems.	All repairs completed within 2 weeks.	On target.	Minor defects identified by inspection and from the public via requests for service. All rectified within 2 weeks to date
<b>Cemetery</b>				
The Kawerau cemetery meets community interment needs in the present and the medium term	Number of burial plots available	Enough for at least 5 years	Achieved to date	There are currently enough plots for approximately a further 10 years.
	Community satisfaction with the cemetery	>78%	Achievement anticipated	The community satisfaction survey is done every 3 years and will be carried out in 2023

<sup>12</sup> Problems can be identified by users, parents, community members or staff at any time.



**OSUNDRY (VANDALISM, PLANT AND ELIMINATIONS)**

**Funding Impact Statement**

These activities include vandalism, plant and eliminations. Eliminations mostly include the rates charged to Council properties and any past years' surpluses that Council has resolved to use to reduce rates.

	Budget	Actual	Comment
Operating funding -- Rates & Charges (A)	(901,189)	(464,484)	
Applications of operating funding -- Staff & Suppliers (B)	(988,339)	(297,838)	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>87,150</b>	<b>(166,646)</b>	
Sources of capital funding (C)	0	100,000	
Less (D):			
Renewals/capital	157,800	169,186	Plant & vehicles
Increase/(decrease) in reserves	(70,650)	(235,823)	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(87,150)</b>	<b>166,646</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>0</b>	<b>0</b>	

## ACCOMMODATION AND CORPORATE OVERHEADS

### Funding Impact Statement

These activities include the buildings costs as well as overheads (CEO's and Managers' cost centres). These costs are allocated and are included in the other activities costs, which is required for reporting purposes.

	Budget	Actual	Comment
Operating funding – Rates & Charges (A)	70,319	145,032	Additional COVID & DIA funding
Applications of operating funding – Staff & Suppliers (B)	3,846,070	1,910,924	
<i>Less allocated to activities</i>	<i>(3,846,070)</i>	<i>(1,910,924)</i>	
<b>Surplus (deficit) of operating funding (A - B)</b>	<b>70,319</b>	<b>145,032</b>	
Sources of capital funding (C)	0	0	
Less (D):			
Renewals/capital	239,500	11,694	IT and building renewals
Increase/(decrease) in reserves	(169,181)	133,338	
<b>Surplus (deficit) of capital funding (C - D)</b>	<b>(70,319)</b>	<b>(145,032)</b>	
<b>Funding balance ((A - B) + (C - D))</b>	<b>\$0</b>	<b>\$0</b>	

**Meeting:** Council  
**Meeting Date:** 22 February 2023  
**Subject:** Code of Conduct  
**File No.:** 101300

## 1 **Purpose**

The purpose of this report is to review Council's Code of Conduct, which governs the behaviour of elected members. It also seeks the adoption of a Policy for Dealing with Alleged Breaches.

## 2 **Background**

In December 2003, Council adopted its first code of conduct for members of Council as required by the Local Government Act 2002. At the beginning of the last triennium, the Council reaffirmed the code of conduct.

The adopted code of conduct may be amended, but cannot be revoked unless Council adopts a replacement code. Amendment of a code of conduct requires a 75 percent (or more) majority vote of the elected members present at the meeting.

A copy of the proposed code of conduct is attached and is a significant change from the previous code as the new code of conduct has been drafted by Local Government New Zealand (LGNZ) and will be adopted by most councils.

Circulated separately with this agenda is Local Government New Zealand guidance, which includes:

- Part One: The Code of Conduct template
- Part Two: Draft policy for dealing with alleged breaches

Council does not currently have a policy for dealing with alleged breaches.

## 3 **Code of Conduct**

The code of conduct sets out the standards of behaviour expected from individual elected members in the exercise of their duties.

It sets out understandings and expectations adopted by Council about the manner in which members may conduct themselves while acting in their capacity as members. This includes behaviour towards other members, staff and the general public.

The code of conduct reflects an agreement between elected members as to what they expect from one another. It therefore relies heavily on individual goodwill and the ability of Council to act as a collective to exert moral persuasion to deter individual members from behaviour that might breach the code.

The code of conduct is not a means of preventing elected members from expressing their views. It promotes effective working relationships within Council and between Council and the community. Also, a code of conduct should promote free and frank debate, which should in turn promote good decision-making. Codes of conduct should not be used in a way that stifles debate.

It is proposed that the LGNZ template be adopted as Council's Code of Conduct.

#### **4 Policy for dealing with alleged breaches**

Part Two of the attached LGNZ guidance provides a template for a policy on dealing with alleged breaches of the Code of Conduct.

There are two areas, which Council needs to consider before adopting a policy.

1. **Assessment Process** (Page 16 of the guidance)

The proposed policy includes the two-step process.

2. **Binding or non-binding recommendations** (Pages 16-17 of the guidance)

The proposed policy makes the recommendations from an investigator binding.

#### **5 Policy and Plan Considerations**

The code of conduct is not inconsistent with any other Council policy or plan.

#### **6 Significance and Engagement**

Council is not required to consult the public on the content of a code of conduct.

#### **7 Financial Considerations**

The costs of assessment and investigatory services will be met by Council.

#### **8 Legal Considerations**

A code of conduct must set out:

1. understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including
  - a. behaviour toward one another, staff, and the public; and
  - b. disclosure of information, including (but not limited to) the provision of any document, to elected members that
    - i. is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and
    - ii. relates to the ability of the local authority to give effect to any provision of this Act; and

2. general explanation of
  - a. the Local Government Official Information and Meetings Act 1987; and
  - b. any other enactment or rule of law applicable to members.

## 9 **Conclusion**

After considering all issues, options and the known views of those affected, as well as giving consideration to the level of significance and the legal and financial implications, the recommendation of this report is that Council adopts the code of conduct as drafted.

## 10 **RECOMMENDATIONS**

1. That the report "Code of Conduct" be received.
2. That Council adopts the Code of Conduct.



R B George, CA, MBA

**Chief Executive Officer**

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# CODE OF CONDUCT

## Wāhanga Tuatahi: Anga Tikanga Whanonga

The Kawerau District Council Code of Conduct has been adopted in accordance with the requirements of the Clause 15, Schedule 7 of the LGA 2002, which requires every local authority to adopt a code of conduct for members of the local authority.

### **Members' commitment | Ngā herenga a ngā mema**

These commitments apply when conducting the business of the local authority as its representative or the representative of an electorate, and communicating with other members, the media, the public, or staff. By adopting the Code of Conduct members agree that they will:

1. treat all people fairly,
2. treat all other members, staff, and members of the public, with respect,
3. share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties,
4. operate in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi,
5. make it clear, when speaking publicly, that statements reflect their personal view, unless otherwise authorised to speak on behalf of the local authority,
6. take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of a member,
7. not bully, harass, or discriminate unlawfully against any person,
8. not bring the local authority into disrepute,
9. not use their position to improperly advantage themselves or anyone else or disadvantage another person,
10. not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority,
11. not disclose information acquired, or given, in confidence, which they believe is of a confidential nature.

**Please note:** a failure to act in accordance with these commitments may result in a complaint being taken against you.

The Code of Conduct sets standards for the behaviour of members towards other members, staff, the public, and the media. It is also concerned with the disclosure of information that members receive in their capacity as members. Members of a local authority must comply with the Code of Conduct of that local authority. More detail explaining the Code of Conduct is set out in Appendix 1.

A copy of clause 15 of Schedule 7 of the LGA, which sets out the requirements for a code of conduct, is contained in Appendix 2.

# Appendix 1: The Code of Conduct explained

## He whakamārama mō te Tikanga Whanonga

### 1. Definitions

For the purposes of this Code “member” means an elected or appointed member of:

- the governing body of the local authority,
- any committee or sub-committee of the local authority,
- any local board of the local authority, or
- any community board of the local authority.

Local authority means the kaunihera, local board or community board which has adopted this Code.

### 2. Te Tiriti o Waitangi

The Kawerau kaunihera commits to operating in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi and acknowledges the following principles:

1. **Tino Rangatiratanga:** The principle of self-determination provides for Māori self-determination and mana motuhake. This requires local authorities to be open to working with mana whenua partners in the design and delivery of their work programmes,
2. **Partnership:** The principle of partnership implies that local authorities will seek to establish a strong and enduring relationship with iwi and Māori, within the context of iwi and Māori expectations. Kaunihera should identify opportunities, and develop and maintain ways, for Māori to contribute to kaunihera decisions, and consider ways kaunihera can help build Māori capacity to contribute to council decision-making,
3. **Equity:** The principle of equity requires local authorities to commit to achieving the equitable delivery of local public services,
4. **Active protection:** The principle of active protection requires local authorities to be well informed on the wellbeing of iwi, hapū and whanau within their respective rohe,
5. **Options:** The principle of options requires local authorities to ensure that its services are provided in a culturally appropriate way that recognises and supports the expression of te ao Māori.

### 3. Principles of Good Governance

Members recognise the importance of the following principles of good governance.

- **Public interest:** members should act solely in the public interest.
- **Integrity:** members should not act or take decisions to gain financial or other benefits for themselves, their family, or their friends, or place themselves under any obligation to people or organisations that might inappropriately influence them in their work.
- **Tāria te wā and kaitiakitanga/stewardship:** members should use long-term perspective when making decisions. Decisions, which impact on past, current and future generations, also affect collective well-being.
- **Objectivity:** members should act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** members will be accountable to the public for their decisions and actions and will submit themselves to the scrutiny necessary to ensure this.
- **Openness:** members should act and take decisions in an open and transparent manner and not withhold information from the public unless there are clear and lawful reasons for so doing.



- **Honesty:** members should be truthful and not misleading.
- **Leadership:** members should not only exhibit these principles in their own behaviour but also be willing to challenge poor behaviour in others, wherever it occurs.

#### **4. Behaviours**

To promote good governance and build trust between the local authority, its members, and citizens, members **agree** to the following standards of conduct when they are:

- conducting the business of the local authority,
- acting as a representative of the local authority,
- acting as a representative of their electorate,
- communicating with other members, the media, the public and staff, and
- using social media and other communication channels.

Where a member's conduct falls short of these standards, members accept that they may be subject to a complaint made under the Council's "Policy for alleged breaches of the Code of Conduct".

#### ***Respect***

Members will treat all other members, staff, and members of the public, with respect.

Respect means politeness and courtesy in behaviour, speech, and writing. Debate and differences are all part of a healthy democracy. As a member of a local authority you can challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You must not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Offensive behaviour lowers the public's expectations of, and confidence in, your local authority. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidating or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police.

#### ***Bullying, Harassment, and Discrimination***

Members will treat all people fairly and will not:

- bully any person,
- harass any person, or
- discriminate unlawfully against any person.

For the purpose of the Code of Conduct, bullying is offensive, intimidating, malicious, or insulting behaviour. It represents an abuse of power through means that undermine, humiliate, denigrate, or injure another person. It may be:

- a regular pattern of behaviour, or a one-off incident,
- occur face-to-face, on social media, in emails or phone calls, happen in the workplace, or at work social events, and
- may not always be obvious or noticed by others.

Harassment means conduct that causes alarm or distress, or puts people in fear of violence, and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination occurs when a person is treated unfairly, or less favourably, than another person because of any of the following<sup>1</sup>:

age	skin, hair, or eye colour	race
disability	employment status	ethical belief
ethnic or national origin	family status	marital status
political opinion	religious belief	gender identity
sex	sexual orientation.	

### ***Sharing information***

Members will share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties.

Occasionally members will receive information in their capacity as members of the governing body, which is pertinent to the ability of their kaunihera to properly perform its statutory duties. Where this occurs members will disclose any such information to other members and, where appropriate, the chief executive. Members who are offered information on the condition that it remains confidential will inform the person making the offer that they are under a duty to disclosure such information, for example, to a governing body meeting in public exclusion.

### ***Expressing Personal Views Publicly***

Members, except when authorised to speak on behalf of the local authority, will make it clear, when speaking to the media, on social media, or in hui and presentations, that statements reflect their personal view.

The media play an important role in the operation and efficacy of our local democracy and need accurate and timely information about the affairs of the local authority to fulfil that role. Members are free to express a personal view to the media and in other public channels at any time, provided the following rules are observed:

- they do not purport to talk on behalf of the local authority, if permission to speak on behalf of the authority has not been given to them
- their comments must not be inconsistent with the Code, for example, they should not disclose confidential information or criticise individual members of staff, and
- their comments must not purposefully misrepresent the views of the local authority or other members.

Members will abide by the social media protocols described in Attachment A, LGNZ's Good Governance Guide, available at <https://www.lgnz.co.nz/assets/Induction/The-Good-Governance-Guide.pdf>

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<sup>1</sup> See Human Rights Commission <https://www.govt.nz/browse/law-crime-and-justice/human-rights-in-nz/human-rights-and-freedoms/>

### ***Provide Equitable Contribution***

Members will take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of them.

Being a member is a position of considerable trust, given to you by your community to act on their behalf. To fulfil the expectations of your constituents and contribute to the good governance of your area it is important that you make all reasonable efforts to attend meetings and workshops, prepare for meetings, attend civic events, and participate in relevant training seminars.

The local government workload can be substantial, and it is important that every member contributes appropriately. This requires members to often work as a team and avoid situations where the majority of the work falls on the shoulders of a small number of members.

### ***Disrepute***

Members will not bring the local authority into disrepute.

Members are trusted to make decisions on behalf of their communities and as such their actions and behaviours are subject to greater scrutiny than other citizens. Members' actions also reflect on the local authority as well as themselves and can serve to either boost or erode public confidence in both.

Behaviours that might bring a local authority into disrepute, and diminish its ability to fulfil its statutory role, include behaviours that are dishonest and/or deceitful. Adhering to this Code does not in any way limit a member's ability to hold the local authority and fellow members to account or constructively challenge and express concerns about decisions and processes undertaken by their local authority.

### ***Use of Position for Personal Advantage***

Members will not use, or attempt to use, their position to improperly advantage themselves or anyone else, or disadvantage another person.

Being a member of a local authority comes with certain opportunities and privileges, including the power to make choices that can impact on others. Members must not take advantage of such opportunities to further their own or others' private interests or to disadvantage anyone unfairly. A member found to have personally benefited by information gained as an elected member may be subject to the provisions of the Secret Commissions Act 2010.

### ***Impartiality***

Members will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They must not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers to gain understanding of their thinking and decision-making, however, they must not seek to influence officials to change their advice or alter the content of a report, other than in a meeting or workshop, if doing so would prejudice their professional integrity. Members should:

- make themselves aware of the obligations that the local authority and chief executive have as employers and always observe these requirements, such as the obligation to be a good employer, and
- observe any protocols put in place by the chief executive concerning contact between members and employees, and not publicly criticise individual staff.

If you have concerns about the behaviour of an official, whether permanent or contracted, you should raise your concerns with the local authority's chief executive, or, if the concerns are to do with the chief executive, raise them with the mayor, the council chairperson, or chief executive performance committee.

### ***Maintaining Confidentiality***

Members will not disclose information acquired, or given, in confidence, which they believe is of a confidential nature, unless.

1. they have the consent of a person authorised to give it,
2. they are required by law to do so,
3. the disclosure is to a third party to obtain professional legal advice, and that the third party agrees not to disclose the information to any other person, or
4. the disclosure is reasonable and in the public interest, is made in good faith, and in compliance with the reasonable requirements of the local authority.

## **Appendix 2: Requirement for a Code of Conduct**

### **Te herenga kia whai Tikanga Whanonga**

Clause 15, Schedule 7 of the Local Government Act 2002 requires every local authority to adopt a code of conduct for members of the local authority. It states:

#### **15 Code of Conduct**

A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.

The code of conduct must set out –

1. understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including:
  - a. behaviour towards one another, staff, and the public; and
  - b. disclosure of information, including (but not limited to) the provision of any document, to elected members that –
    - i. is received by, or is in possession of, an elected member in his or her capacity as an elected member; and
    - ii. relates to the ability of the local authority to give effect to any provision of this Act; and
  - c. a general explanation of –
    - i. the Local Government Official Information and Meetings Act 1987; and
    - ii. any other enactment or rule of law applicable to members.
2. A local authority may amend or replace its code of conduct but may not revoke it without replacement.
3. A member of a local authority must comply with the code of conduct of that local authority.
4. A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.
5. After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.
6. To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.

# Kawerau District Council Policy for investigating and ruling on alleged breaches of the Code of Conduct

Te kaupapahere o te Kaunihera o Kawerau hei tiroiro me te whakatau i ngā whakapae kua takahia te Tikanga Whanonga

## Principles

The following principles will guide the investigation into, and assessment of, complaints made against a member for breaching the Code of Conduct:

- The complaints process will be independent, impartial, and respect members' privacy.
- Members will be given due notice that an investigation is underway and will be provided with an opportunity to be heard.
- Members will have a right to seek independent advice, be represented, and, if they choose, be accompanied by a support person throughout the process.
- Complaints will be resolved at the lowest level of resolution as possible, with priority given to finding a mediated settlement.
- Complainants, and members subject to a complaint, will have access to advice and support for the time it takes to find a resolution.

## Who can make a Complaint?

The Code of Conduct is designed to be a self-regulatory instrument and complaints regarding a breach of the Code can only be made by members themselves, or the chief executive, who can make a complaint on behalf of their staff. On receipt of a complaint, the chief executive must forward the complaint to an independent person, either an independent investigator or an initial assessor, for an assessment.

## Role of the Initial Assessor

On receipt of a complaint an initial assessor will undertake an assessment to determine the relative merit and seriousness of the complaint, and the nature of the subsequent process that will be followed. The complaint may be dismissed if the initial assessor finds them to be trivial, vexatious, frivolous, or politically motivated.

If a complaint is not dismissed, the initial assessor may initiate one of the following:

### 1 Refer to a Chair or Mayor

In the case of a breach that is not serious or amendable to mediation, the initial assessor may refer the person responsible for the alleged breach to the chair or mayor for their advice and guidance. These will not be reported to the local authority. A meeting or meetings with the chair will be regarded as sufficient to resolve the complaint. Where a member is referred to the chair, the initial assessor may also recommend, for the chair's consideration:

- That the member attends a relevant training course.
- That the member work with a mentor for a period.
- That the member tenders an apology.

## **2 Mediation**

If the complaint concerns a dispute between two members, or between a member and another party, the initial assessor may recommend mediation. If mediation is agreed by both parties, then its completion will represent the end of the complaints process. The outcomes of any mediation will be confidential and, other than reporting that a complaint has been resolved through mediation, there will be no additional report to the local authority unless the complaint is referred to an independent investigator, usually due to a failure of the mediation.

## **3 Refer to an Independent Investigator**

Where the initial assessor finds that the complaint is serious or no resolution can be reached and/or mediation is refused, the initial assessor will refer the complaint to an independent investigator. The independent investigator will be selected from the local authority's independent investigators' panel assembled by the chief executive, or an independent investigator service that is contracted to the kaunihera. Complaints that involve a chairperson or chief executive will be referred directly to the independent investigator.

Complaints that are dismissed, referred to a chairperson, or resolved by mediation, will not be reported to the local authority.

## **Role of the Independent Investigator**

The independent investigator will:

- determine whether a breach has occurred,
- if so, determine the seriousness of the breach, and
- determine actions that a local authority should take in response to the breach.

Any recommended actions made in response to a complaint that has been upheld are binding on the local authority. This is to ensure the process for investigation is free of any suggestion of bias and reduces the cost of the complaints process, by reducing the time spent on it, by members and officials.

Determining the significance of an alleged breach

The independent investigator may take whatever actions they need to determine the significance of a complaint, within the budgetary constraints set down, including re-assessing the complaint.

The independent investigator will undertake an investigation appropriate to the scale of the breach, which may include interviews with other affected parties, and prepare a report for the chief executive which will set out the rationale for their findings and may include recommendations for resolving the breach and appropriate penalties.

When considering the issue of significance, the independent investigator will need to consider a range of factors before deciding, such as:

- Was the breach intentional or unintentional?
- Did it occur once or is there a pattern of recurring behaviour?
- Does the breach have legal or financial ramifications for the kaunihera?
- What is the impact of the breach on other elected members, on kaimahi (officials) and on the community in general?

Independent investigator can make a binding rule

On completing their investigation, an independent investigator may dismiss a complaint or make a binding ruling which the governing body will implement. The independent investigator's ruling will be contained in a report to the kaunihera chief executive which will form the basis of a consequent report to the governing body to inform them of the decision and the actions that they may be required to take.

**Please note:** All actions taken in the implementation of a policy must be consistent with the Bill of Rights Act 1990. No appeal right is included in the Code of Conduct. Members who are unhappy with an independent investigator's decision have access to judicial review and/or the Ombudsman's Office.

## **Costs and Support**

Kaunihera must ensure that members who make a complaint are not left to meet any costs created by doing so. Members, those who make complaints, and those who are subject to a complaint, should be given appropriate and reasonable support.

The costs of assessment and investigatory services will be met by the relevant kaunihera.



## **Attachments Ngā tāpiritanga**

### **Process for determining and investigating complaints**

Te tukanga whakataua me te tiroiro i ngā amuamu

#### ***Step 1: Chief Executive receives complaint***

All complaints made under this Code of Conduct must be made in writing and forwarded to the chief executive who will refer the complaint to the initial assessor. The chief executive will also:

- inform the complainant that the complaint has been referred to the independent person (named) and refer them to the process for dealing with complaints as set out in the Code of Conduct; and
- inform the respondent that a complaint has been made against them and the name of the independent investigator overseeing the process and refer them to the policy for dealing with complaints as set out in the Code of Conduct.

#### ***Step 2: Initial assessor makes an assessment and arranges mediation***

1. The initial assessor will undertake an assessment of the merits of the complaint. If they consider it is not valid, the complaint will be dismissed. The complainant will have no recourse or appeal. Grounds for concluding that a complaint has no merit include that it is trivial, vexatious, frivolous, or politically motivated.
2. If deemed to have merit, the initial assessor will contact the parties to seek their agreement to independently facilitated mediation. If the parties agree and the issue is resolved by mediation the matter will be closed and no further action is required.
3. If the parties do not agree to mediation, or mediation is unsuccessful in resolving the matter, the initial assessor will refer the complaint to an independent investigator selected from a panel established by the chief executive at the start of the triennium, or service contracted to the local authority. The initial assessor will also inform the complainant and the respondent that the complaint has been referred to the independent investigator and the name of the independent investigator.

#### ***Step 3: Independent Investigator to inquire and conclude on the matter***

If the complaint is found to be a breach of the Code of Conduct the independent investigator will inform the initial assessor, who will inform the complainant and respondent. The independent investigator will then assess the nature and effect of the breach and prepare a report for the kaunihera on the seriousness of the breach and recommend actions commensurate with that breach. In preparing that report the independent investigator may:

- consult with the complainant, respondent, and any affected parties,
- undertake a hearing with relevant parties, and/or
- refer to any relevant documents or information.

At any stage in their inquiry the independent investigator may find that a breach has not occurred, or the matter should be referred to a relevant agency. If this is the case the independent investigator will inform the initial assessor who will inform the complainant and respondent that the complaint is dismissed or has been referred to a relevant named agency.

On receipt of the independent investigator's report the chief executive, or initial assessor, will prepare a report for the kaunihera, which will meet to consider the findings and implement any recommended actions. The report will include the full report prepared by the investigator.

#### ***Step 4: Process for considering the Investigator's report***

Where the council's policy for determining and investigating complaints provides for an independent investigator's recommendations to be binding on the local authority, then:

- the chief executive's report, containing the independent investigator's recommendations and their full report, will be presented to the governing body for its information only.
- The chief executive's report may also outline the plan for the report's public release, for the governing body's information and comment.
- The report will be received in public meeting unless grounds, such as s.48 LGOIMA, exist for the exclusion of the public.

### **Selecting the Initial Assessor and Independent Investigator**

Te kōwhiri i te tangata motuhake me te kaitirotiro motuhake

#### ***Selecting an Initial Assessor***

The chief executive is responsible for this. In selecting the initial assessor, the chief executive will consult with the local authority.

The initial assessor should be a person, or a position, that is independent of a local authority's political governance, while also being easily accessible, as their role is crucial if complaints are to be expedited quickly and without controversy. For example:

- The external appointee on a kaunihera's Audit and Risk Committee.
- A member of staff, such as an internal ombudsman or ethics adviser, as long as they have operational independence from the chief executive (similar to the independence afforded an Electoral Officer).
- A retired local authority chief executive.
- A retired local authority politician.
- A member of the public with relevant experience and competency.

#### ***Selecting an Independent Investigator***

The chief executive is responsible for compiling a panel or list of independent investigators.

At the beginning of each triennium the chief executive, in consultation with the kaunihera, will compile a list of independent investigators. In selecting them, a chief executive may consider:

- the council's legal advisers,
- a national service specialising in public sector integrity,
- a national service providing assessment and investigation services, or
- an individual with relevant skills and competencies.

**Please note:** Given the litigious nature of some code of conduct disputes independent investigators should have relevant liability insurance, provide on their own behalf or by the local authority. The chief executive also needs to ensure that investigations are undertaken within budgetary limits negotiated in advance.

## **Actions that may be applied when a breach has been confirmed**

### **Ngā mahi ka whāia pea ina whakatauhia tētahi takahanga**

Where a complaint that the Code of Conduct was breached has been upheld, any actions taken against the member found to be in breach should be consistent with the following principles.

- Actions should be commensurate with the seriousness of the breach.
- Actions should be applied in a manner that is culturally appropriate and safe for the members involved.
- Actions should, to the degree practical, contribute to an inclusive culture in the local authority by focusing on constructive mediation, learning, and member improvement.

In determining a response to a breach of the Code of Conduct, one or more of the following could be selected:

1. That no action is required.
2. That the member meets with the mayor/chair for advice.
3. That the member attends a relevant training course.
4. That the member agrees to cease the behaviour.
5. That the member work with a mentor for a period.
6. That the member tenders an apology.
7. That the member participates in voluntary mediation (if the complaint involves a conflict between two members).
8. That the local authority sends a letter of censure to the member.
9. That the local authority passes a vote of no confidence in the member.
10. That the member loses certain kaunihera-funded privileges (such as attendance at conferences).
11. That the member loses specific responsibilities, such as committee chair, deputy committee chair or portfolio holder.
12. That the member be subject to restricted entry to kaunihera offices, such as no access to staff areas (where restrictions may not previously have existed).
13. That the member be subject to limitations on their dealings with kaunihera staff, other than the chief executive or identified senior manager.
14. That the member be suspended from committees or other bodies to which the member has been appointed.
15. That the member be invited to consider resigning from the council.

**Please note:** Actions 1-6 will typically not be reported to the local authority. Actions 7-15, which have a high degree of public interest, namely democratic representation, should be considered in an open meeting, unless there are grounds, such as those set out in LGOIMA, for not doing so.

### ***Responses to statutory breaches***

In cases where a breach of the Code of Conduct is found to involve regulatory or legislative requirements, the chief executive will refer the complaint to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA).
- Breaches which result in the council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under section 44 LGA 2002 which may result in the member having to make good the loss or damage).
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

## **Legislation which sets standards for ethical behaviour**

### **Ngā ture e whakatakoto ana i ngā paerewa mō ngā whanonga matatika**

Clause 15 of Schedule 7 of the Local Government Act (the Act) 2002, requires that the Code of Conduct provides members with a general explanation of the Local Government Official Information and Meetings Act 1987, and any other enactment or rule of law that affects members.

The key statutes that promote ethical behaviour are the Local Government Act 2002 (LGA), Local Government Official Information Act 1987 (LGOIMA), the Local Authorities (Members' Interests) Act 1968 (LAMIA), the Protected Disclosures (Protection of Whistleblowers) Act 2022, the Serious Fraud Office Act 1990, the Local Government (Pecuniary Interests Register) Act 2022, the Health and Safety at Work Act 2015, and the Harmful Digital Communications Act 2015.

### ***The Local Government Act 2002***

The LGA 2002 is local government's empowering statute. It establishes our system of local government and sets out the rules by which it operates. Those rules include the principles underpinning kaunihera decision-making, governance principles, Te Tiriti obligations as set by the Crown, and the role of the chief executive which is:

1. implementing the decisions of the local authority,
2. providing advice to members of the local authority and to its community boards, if any and
3. ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed, or exercised,
4. ensuring the effective and efficient management of the activities of the local authority,
5. facilitating and fostering representative and substantial elector participation in elections and polls held under the Local Electoral Act 2001,
6. maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority,
7. providing leadership for the staff of the local authority,
8. employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy), and
9. negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy).

### ***The Local Government Official Information and Meetings Act 1987***

The LGOIMA sets rules for ensuring the public are able to access official information unless there is a valid reason for withholding it. All information should be considered public and released accordingly unless there is a compelling case for confidentiality. Even where information has been classified as confidential, best practice is for it to be proactively released as soon as the grounds for confidentiality have passed.

There are both conclusive and other reasons for withholding information set out in sections 6 and 7 of LGOIMA, which include:

Conclusive reasons for withholding – if making the information available would likely:

- prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial; or
- endanger the safety of any person.

Other reasons for withholding – withholding the information is necessary to:

- protect the privacy of natural persons, including that of deceased natural persons;
- protect information where it would disclose a trade secret or would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- in the case of an application for resource consents or certain orders under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu;
- protect information the subject of an obligation of confidence, where making that information available would prejudice the supply of similar information (and it is in the public interest for this to continue), or would be likely otherwise to damage the public interest;
- avoid prejudice to measures protecting the health or safety of members of the public;
- avoid prejudice to measures that prevent or mitigate material loss to members of the public;
- maintain the effective conduct of public affairs through free and frank expression of opinions between or to members and local authority employees in the course of their duty or the protection of such people from improper pressure or harassment;
- maintain legal professional privilege;
- enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- prevent the disclosure or use of official information for improper gain or improper advantage.

Regarding these 'other' reasons, a public interest balancing test applies. In these cases the kaunihera must consider whether the withholding of that information is outweighed by other considerations that render it desirable, in the public interest, to make that information available. Decisions about the release of information under LGOIMA need to be made by the appropriately authorised people within each kaunihera, and elected members must work within the rules adopted by each kaunihera.

The LGOIMA also sets the rules that govern public access to meetings and the grounds on which that access can be restricted, which occurs when meetings consider matters that are confidential.

### **The role of the Ombudsman**

An Ombudsman is an Officer of Parliament appointed by the Governor-General on the recommendation of Parliament. An Ombudsman's primary role under the Ombudsmen Act 1975 is to independently investigate administrative acts and decisions of central and local government departments and organisations that affect someone in a personal capacity. Ombudsmen investigate complaints made under LGOIMA.

Anyone who has a complaint of that nature about a local authority may ask an Ombudsman to investigate that complaint. Investigations are conducted in private. The Ombudsman may obtain whatever information is considered necessary, whether from the complainant, the chief executive of the local body involved, or any other party. The Ombudsman's decision is provided in writing to both parties.

If a complaint is sustained, the Ombudsman may recommend the local authority takes whatever action the Ombudsman considers would be an appropriate remedy. Any such recommendation is, however, not binding. Recommendations made to the local authority under this Act will, in general, become binding unless the local authority resolves otherwise. However, any such resolution must be recorded in writing and be made within 20 working days of the date of the recommendation.

## ***The Local Authorities (Members' Interests) Act 1968***

### **Pecuniary interests**

The LAMIA provides rules about members discussing or voting on matters in which they have a pecuniary interest and about contracts between members and the council. LAMIA has two main rules, referred to here as the contracting rule (in section 3 of the LAIMA) and the participation rule (in section 6 of the LAIMA).

- The **contracting rule** prevents a member from having interests in contracts with the local authority that are worth more than \$25,000 in any financial year, unless the Auditor-General approves the contracts. Breach of the rule results in automatic disqualification from office.
- The **participation rule** prevents a member from voting or taking part in the discussion of any matter in which they have a financial interest, other than an interest in common with the public. The Auditor-General can approve participation in limited circumstances. Breach of the rule is a criminal offence, and conviction results in automatic disqualification from office.

Both rules have a complex series of subsidiary rules about their scope and exceptions.

The LAMIA does not define when a person is "concerned or interested" in a contract (for the purposes of section 3) or when they are interested "directly or indirectly" in a decision (for the purposes of section 6). However, it does set out two situations where this occurs. These are broadly where:

- a person's spouse or partner is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- a person or their spouse or partner is involved in a company that is "concerned or interested" in the contract or where the company has a pecuniary interest in the decision.

However, in some situations outside the two listed in the Act a person can be "concerned or interested" in a contract or have a pecuniary interest in a decision, for example, where a contract is between the members family trust and the kaunihera.

### **Non-pecuniary conflicts of interest**

In addition to the issue of pecuniary interests, which are addressed through the LAMIA, there are also legal rules about conflicts of interest more generally. These are rules that apply to non-pecuniary conflicts of interest and include the common law rule about bias. To determine if bias exists, consider this question: Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?

The question is not limited to actual bias but relates to the appearance or possibility of bias. This is in line with the principle that justice should not only be done but should be seen to be done. Whether or not you believe that you are not biased is irrelevant. The focus should be on the nature of any conflicting interest or relationship, and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- statements or conduct indicate that a member has predetermined the decision before hearing all relevant information (that is, they have a "closed mind"), or
- a member has close relationship or involvement with an individual or organisation affected by the decision.

## Seeking exemption from the Auditor-General

Members who have a financial conflict of interest that is covered by section 6 of the LAMIA, may apply to the Auditor-General for approval to participate. The Auditor-General can approve participation in two ways.

1. Section 6(3)(f) allows the Auditor-General to grant an exemption if, in their opinion, a member's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor when voting or taking part in the discussion.
2. Section 6(4) allows the Auditor-General to grant a declaration enabling a member to participate if they are satisfied that:
  - a. the application of the rule would impede the transaction of business by the council; or
  - b. it would be in the interests of the electors or residents of the district/region that the rule should not apply.

More information on non-pecuniary conflicts of interest and how to manage them can be found in the Auditor-General's Guidance for members of local authorities about the law on conflicts of interest.

## ***Protected Disclosures (Protection of Whistleblowers) Act 2022***

The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and to provide protection for employees and other workers who report concerns. A protected disclosure occurs when the discloser believes, on reasonable grounds, that there is, or has been, **serious wrongdoing** in or by their organisation, they disclose in accordance with the Act, and they do not disclose in bad faith.

A discloser is a person who has an employment type relationship with the organisation they are disclosing about and includes current and former employees, homeworkers, secondees, contractors, volunteers, and board members. Serious wrongdoing includes:

- an offence
- a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial
- an unlawful, corrupt, or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government

Kaunihera need to have appropriate internal procedures that identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act, and explain how the organisation will provide practical assistance and advice to disclosers. A discloser does not have to go through their organisation first. An appropriate authority can include the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General. Ombudsmen are also an "appropriate authority" under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

## ***The Serious Fraud Office Act 1990***

The Serious Fraud Office (SFO) is the lead law enforcement agency for investigating and prosecuting serious financial crime, including bribery and corruption. The SFO has an increasing focus on prevention by building awareness and understanding of the risks of corruption – noting that

the extent of corruption is influenced by organisational frameworks and support given to staff. The SFO encourages organisations to adopt appropriate checks and balances and build a culture based on ethics and integrity.

The four basic elements of best practice organisational control promoted by the SFO involve:

- Operations people with the right skills and experience in the relevant areas, with clear accountability lines.
- Risk mitigation to manage risks that can't be eliminated through segregation, discretion reduction, delegations, management oversight, and audit.
- Basic standards of behaviour moderated by a Code of Conduct, ongoing interests and gift processes (not simply annual declaration), plenty of opportunities and ways to speak up, disciplinary options, training and support.
- Design and oversight based on a clear understanding of operational realities (design, governance, management, audit, investigation, business improvement, and legal).

### ***The Local Government (Pecuniary Interests Register) Act 2022***

Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, a local authority must now keep a register of the pecuniary interests of their members, including community and local board members. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:

- the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the 30 main business activities of each of those companies,
- the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
- if the member is employed, the name of each employer of their employer and a description of the main business activities of those employers,
- the name of each trust in which the member has a beneficial interest,
- the name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the local authority, local board, or community board to which the member has been elected,
- the title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,
- the location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

Each council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.



## ***The Health and Safety Act at Work Act 2015***

The Health and Safety at Work Act 2015 aims to create a new culture towards health and safety in workplaces. A council is termed a Person Conducting a Business or Undertaking (PCBU) - all involved in work, including elected members, are required to have a duty of care. Elected members are "officers" under the Act and officers are required to exercise due diligence to ensure that the PCBU complies with its duties. However, certain officers, such as elected members, cannot be prosecuted if they fail in their due diligence duty. Despite this, as officers, the key matters to be mindful of are:

- stepping up and being accountable,
- identifying and managing your risks,
- making health and safety part of your organisation's culture, and
- getting your workers involved.

Councils have wide discretion about how these matters might be applied, for example:

- adopting a charter setting out the elected members' role in leading health and safety – with your chief executive,
- publishing a safety vision and beliefs statement,
- establishing health and safety targets for the organisation with your chief executive,
- ensuring there is an effective linkage between health and safety goals and the actions and priorities of your chief executive and their senior management, or
- having effective implementation of a fit-for-purpose health and safety management system.

Elected members, through their chief executive need to ensure their organisations have sufficient personnel with the right skill mix and support, to meet the health and safety requirements. This includes making sure that funding is sufficient to effectively implement and maintain the system and its improvement programmes.

## ***The Harmful Digital Communications Act 2015***

The Harmful Digital Communications Act (HDCA) was passed to help people dealing with serious or repeated harmful digital communications. The Act covers any harmful digital communications (like text, emails, or social media content) which can include racist, sexist and religiously intolerant comments – plus those about disabilities or sexual orientation and sets out 10 communication principles for guiding communication online. Under the Act a digital communication should not:

- disclose sensitive personal facts about an individual
- be threatening, intimidating, or menacing
- be grossly offensive to a reasonable person in the position of the affected individual
- be indecent or obscene
- be used to harass an individual
- make a false allegation
- contain a matter that is published in breach of confidence
- incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual
- incite or encourage an individual to commit suicide
- denigrate an individual by reason of colour, race, ethnic or national origins, religion, gender, sexual orientation or disability



# The Kawerau District Council Policy for Investigating and Ruling on Alleged Breaches of the Code of Conduct

Te kaupapahere o te Kaunihera o Kawerau hei tiro tiro me te whakatauranga i ngā whakapae kua takahia te Tikanga Whanonga

## Principles

The following principles will guide the investigation into, and assessment of, complaints made against a member for breaching the Code of Conduct:

- The complaints process will be independent, impartial, and respect members' privacy.
- Members will be given due notice that an investigation is underway and will be provided with an opportunity to be heard.
- Members will have a right to seek independent advice, be represented, and, if they choose, be accompanied by a support person throughout the process.
- Complaints will be resolved at the lowest level of resolution as possible, with priority given to finding a mediated settlement.
- Complainants, and members subject to a complaint, will have access to advice and support for the time it takes to find a resolution<sup>1</sup>.

## Who can make a Complaint?

The Code of Conduct is designed to be a self-regulatory instrument and complaints regarding a breach of the Code can only be made by members themselves, or the chief executive, who can make a complaint on behalf of their staff. On receipt of a complaint, the chief executive must forward the complaint to an independent person, either an independent investigator or an initial assessor, for an assessment.

## Role of the Initial Assessor

On receipt of a complaint an initial assessor will undertake an assessment to determine the relative merit and seriousness of the complaint, and the nature of the subsequent process that will be followed. The complaint may be dismissed if the initial assessor finds them to be trivial, vexatious, frivolous, or politically motivated.

If a complaint is not dismissed, the initial assessor may initiate one of the following:

### 1 Refer to a Chair or Mayor

In the case of a breach that is not serious or amendable to mediation, the initial assessor may refer the person responsible for the alleged breach to the chair or mayor for their advice and guidance. These will not be reported to the local authority. A meeting or meetings with the chair will be regarded as sufficient to resolve the complaint. Where a member is referred to the chair, the initial assessor may also recommend, for the chair's consideration:

- That the member attends a relevant training course.
- That the member work with a mentor for a period.
- That the member tenders an apology.

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<sup>1</sup> For example, by enabling both parties to access a council's Employee Assistance Programme (EAP) or elected members' equivalent.

## **2 Mediation**

If the complaint concerns a dispute between two members, or between a member and another party, the initial assessor may recommend mediation. If mediation is agreed by both parties, then its completion will represent the end of the complaints process. The outcomes of any mediation will be confidential and, other than reporting that a complaint has been resolved through mediation, there will be no additional report to the local authority unless the complaint is referred to an independent investigator, usually due to a failure of the mediation.

## **3 Refer to an Independent Investigator**

Where the initial assessor finds that the complaint is serious or no resolution can be reached and/or mediation is refused, the initial assessor will refer the complaint to an independent investigator. The independent investigator will be selected from the local authority's independent investigators' panel assembled by the chief executive, or an independent investigator service that is contracted to the kaunihera. Complaints that involve a chairperson or chief executive will be referred directly to the independent investigator.

Complaints that are dismissed, referred to a chairperson, or resolved by mediation, will not be reported to the local authority.

### **Role of the independent investigator**

The independent investigator will:

- determine whether a breach has occurred,
- if so, determine the seriousness of the breach, and
- determine actions that a local authority should take in response to the breach.

Any recommended actions made in response to a complaint that has been upheld are binding on the local authority. This is to ensure the process for investigation is free of any suggestion of bias and reduces the cost of the complaints process, by reducing the time spent on it, by members and officials.

Determining the significance of an alleged breach

The independent investigator may take whatever actions they need to determine the significance of a complaint, within the budgetary constraints set down, including re-assessing the complaint.

The independent investigator will undertake an investigation appropriate to the scale of the breach, which may include interviews with other affected parties, and prepare a report for the chief executive which will set out the rationale for their findings and may include recommendations for resolving the breach and appropriate penalties.

When considering the issue of significance, the independent investigator will need to consider a range of factors before deciding, such as:

- Was the breach intentional or unintentional?
- Did it occur once or is there a pattern of recurring behaviour?
- Does the breach have legal or financial ramifications for the kaunihera?
- What is the impact of the breach on other elected members, on kaimahi (officials) and on the community in general?

Independent investigator can make a binding rule

On completing their investigation, an independent investigator may dismiss a complaint or make a binding ruling which the governing body will implement. The independent investigator's ruling will be contained in a report to the kaunihera chief executive which will form the basis of a consequent report to the governing body to inform them of the decision and the actions that they may be required to take.

**Please note:** All actions taken in the implementation of a policy must be consistent with the Bill of Rights Act 1990. No appeal right is included in the Code of Conduct. Members who are unhappy with an independent investigator's decision have access to judicial review and/or the Ombudsman's Office.

## **Costs and Support**

Kaunihera must ensure that members who make a complaint are not left to meet any costs created by doing so. Members, those who make complaints, and those who are subject to a complaint, should be given appropriate and reasonable support.

The costs of assessment and investigatory services will be met by the relevant kaunihera.

# Attachments Ngā tāpiritanga

## 1: Process for determining and investigating complaints

Te tukanga whakataua me te tiroiro i ngā amuamu

### ***Step 1: Chief Executive receives complaint***

All complaints made under this Code of Conduct must be made in writing and forwarded to the chief executive who will refer the complaint to the initial assessor. The chief executive will also:

- inform the complainant that the complaint has been referred to the independent person (named) and refer them to the process for dealing with complaints as set out in the Code of Conduct; and
- inform the respondent that a complaint has been made against them and the name of the independent investigator overseeing the process and refer them to the policy for dealing with complaints as set out in the Code of Conduct.

### ***Step 2: Initial assessor makes an assessment and arranges mediation***

1. The initial assessor will undertake an assessment of the merits of the complaint. If they consider it is not valid, the complaint will be dismissed. The complainant will have no recourse or appeal. Grounds for concluding that a complaint has no merit include that it is trivial, vexatious, frivolous, or politically motivated.
2. If deemed to have merit, the initial assessor will contact the parties to seek their agreement to independently facilitated mediation. If the parties agree and the issue is resolved by mediation the matter will be closed and no further action is required.
3. If the parties do not agree to mediation, or mediation is unsuccessful in resolving the matter, the initial assessor will refer the complaint to an independent investigator selected from a panel established by the chief executive at the start of the triennium, or service contracted to the local authority. The initial assessor will also inform the complainant and the respondent that the complaint has been referred to the independent investigator and the name of the independent investigator.

### ***Step 3: Independent Investigator to inquire and conclude on the matter***

If the complaint is found to be a breach of the Code of Conduct the independent investigator will inform the initial assessor, who will inform the complainant and respondent. The independent investigator will then assess the nature and effect of the breach and prepare a report for the kaunihera on the seriousness of the breach and recommend actions commensurate with that breach. In preparing that report the independent investigator may:

- consult with the complainant, respondent, and any affected parties,
- undertake a hearing with relevant parties, and/or
- refer to any relevant documents or information.

At any stage in their inquiry the independent investigator may find that a breach has not occurred, or the matter should be referred to a relevant agency. If this is the case the independent investigator will inform the initial assessor who will inform the complainant and respondent that the complaint is dismissed or has been referred to a relevant named agency.

On receipt of the independent investigator's report the chief executive, or initial assessor, will prepare a report for the kaunihera, which will meet to consider the findings and implement any recommended actions. The report will include the full report prepared by the investigator.

#### ***Step 4: Process for considering the Investigator's report***

The process for responding to the independent investigator's report will vary according to the adopted Policy for determining and investigating complaints.

##### **Process if the independent investigator's recommendations are binding**

Where the council's policy for determining and investigating complaints provides for an independent investigator's recommendations to be binding on the local authority, then:

- the chief executive's report, containing the independent investigator's recommendations and their full report, will be presented to the governing body for its information only.
- The chief executive's report may also outline the plan for the report's public release, for the governing body's information and comment.
- The report will be received in public meeting unless grounds, such as s.48 LGOIMA, exist for the exclusion of the public.

##### **Process if the independent investigator's recommendations are non-binding**

Where the council's Policy for determining and investigating complaints give an independent investigator the power to make recommendations to the local authority, then:

- the chief executive's report, containing the independent investigator's recommendations and report, will be presented to the governing body, or committee/sub-committee with delegated authority to consider code of conduct complaints,
- The governing body, or local/community board, will ensure that members with an interest in the complaint are not present during the discussion on the independent investigator's recommendations.
- The report will be received in public meeting unless grounds, such as s.48 LGOIMA, exist for the exclusion of the public.
- The chief executive's report may also outline the plan for the report's public release, for the governing body's information and comment.
- The governing body, local/community board, or committee/sub-committee with delegated authority, may accept the investigator's recommendations or, if they believe it is justified, amend the independent investigator's recommendations. As part of these considerations the complainant may be asked to appear before the governing body, board or committee and answer questions from members.
- The penalty or sanction that might be applied will depend on the seriousness of the breach and may include actions set out in Attachment Three.

## **2: Selecting the initial assessor and independent investigator**

Te kōwhiri i te tangata motuhake me te kaitirotiro motuhake

### ***Selecting an Initial Assessor***

The chief executive is responsible for this. In selected the initial assessor, the chief executive will consult with the local authority.

The initial assessor should be a person, or a position, that is independent of a local authority's political governance, while also being easily accessible, as their role is crucial if complaints are to be expedited quickly and without controversy. For example:

- The external appointee on a kaunihera's Audit and Risk Committee.
- A member of staff, such as an internal ombudsman or ethics adviser, as long as they have operational independence from the chief executive (similar to the independence afforded an Electoral Officer).
- A retired local authority chief executive.
- A retired local authority politician.
- A member of the public with relevant experience and competency.

### ***Selecting an Independent Investigator***

The chief executive is responsible for compiling a panel or list of independent investigators.

At the beginning of each triennium the chief executive, in consultation with the kaunihera, will compile a list of independent investigators. In selecting them, a chief executive may consider:

- the council's legal advisers,
- a national service specialising in public sector integrity,
- a national service providing assessment and investigation services, or
- an individual with relevant skills and competencies.

**Please note:** Given the litigious nature of some code of conduct disputes independent investigators should have relevant liability insurance, provide on their own behalf or by the local authority. The chief executive also needs to ensure that investigations are undertaken within budgetary limits negotiated in advance.



### 3: Actions that may be applied when a breach has been confirmed Ngā mahi ka whāia pea ina whakatauhia tētahi takahanga

Where a complaint that the Code of Conduct was breached has been upheld, any actions taken against the member found to be in breach should be consistent with the following principles.

- Actions should be commensurate with the seriousness of the breach.
- Actions should be applied in a manner that is culturally appropriate and safe for the members involved.
- Actions should, to the degree practical, contribute to an inclusive culture in the local authority by focusing on constructive mediation, learning, and member improvement.

In determining a response to a breach of the Code of Conduct, one or more of the following could be selected:

1. That no action is required.
2. That the member meets with the mayor/chair for advice.
3. That the member attends a relevant training course.
4. That the member agrees to cease the behaviour.
5. That the member work with a mentor for a period.
6. That the member tenders an apology.
7. That the member participates in voluntary mediation (if the complaint involves a conflict between two members).
8. That the local authority sends a letter of censure to the member.
9. That the local authority passes a vote of no confidence in the member.
10. That the member loses certain kaunihera-funded privileges (such as attendance at conferences).
11. That the member loses specific responsibilities, such as committee chair, deputy committee chair or portfolio holder.
12. That the member be subject to restricted entry to kaunihera offices, such as no access to staff areas (where restrictions may not previously have existed).
13. That the member be subject to limitations on their dealings with kaunihera staff, other than the chief executive or identified senior manager.
14. That the member be suspended from committees or other bodies to which the member has been appointed.
15. That the member be invited to consider resigning from the council.

**Please note:** Actions 1-6 will typically not be reported to the local authority. Actions 7-15, which have a high degree of public interest, namely democratic representation, should be considered in an open meeting, unless there are grounds, such as those set out in LGOIMA, for not doing so.

#### ***Responses to statutory breaches***

In cases where a breach of the Code of Conduct is found to involve regulatory or legislative requirements, the chief executive will refer the complaint to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA).
- Breaches which result in the council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under section 44 LGA 2002 which may result in the member having to make good the loss or damage).
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

## **4: Legislation which sets standards for ethical behaviour**

### **Ngā ture e whakatakoto ana i ngā paerewa mō ngā whanonga matatika**

Clause 15 of Schedule 7 of the Local Government Act (the Act) 2002, requires that the Code of Conduct provides members with a general explanation of the Local Government Official Information and Meetings Act 1987, and any other enactment or rule of law that affects members.

The key statutes that promote ethical behaviour are the Local Government Act 2002 (LGA), Local Government Official Information Act 1987 (LGOIMA), the Local Authorities (Members' Interests) Act 1968 (LAMIA), the Protected Disclosures (Protection of Whistleblowers) Act 2022, the Serious Fraud Office Act 1990, the Local Government (Pecuniary Interests Register) Act 2022, the Health and Safety at Work Act 2015, and the Harmful Digital Communications Act 2015.

#### ***The Local Government Act 2002***

The LGA 2002 is local government's empowering statute. It establishes our system of local government and sets out the rules by which it operates. Those rules include the principles underpinning kaunihera decision-making, governance principles, Te Tiriti obligations as set by the Crown, and the role of the chief executive which is:

1. implementing the decisions of the local authority,
2. providing advice to members of the local authority and to its community boards, if any and
3. ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed, or exercised,
4. ensuring the effective and efficient management of the activities of the local authority,
5. facilitating and fostering representative and substantial elector participation in elections and polls held under the Local Electoral Act 2001,
6. maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority,
7. providing leadership for the staff of the local authority,
8. employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy), and
9. negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy).

#### ***The Local Government Official Information and Meetings Act 1987***

The LGOIMA sets rules for ensuring the public are able to access official information unless there is a valid reason for withholding it. All information should be considered public and released accordingly unless there is a compelling case for confidentiality. Even where information has been classified as confidential, best practice is for it to be proactively released as soon as the grounds for confidentiality have passed.

There are both conclusive and other reasons for withholding information set out in sections 6 and 7 of LGOIMA, which include:

Conclusive reasons for withholding – if making the information available would likely:

- prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial; or
- endanger the safety of any person.

Other reasons for withholding – withholding the information is necessary to:

- protect the privacy of natural persons, including that of deceased natural persons;
- protect information where it would disclose a trade secret or would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- in the case of an application for resource consents or certain orders under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu;
- protect information the subject of an obligation of confidence, where making that information available would prejudice the supply of similar information (and it is in the public interest for this to continue), or would be likely otherwise to damage the public interest;
- avoid prejudice to measures protecting the health or safety of members of the public;
- avoid prejudice to measures that prevent or mitigate material loss to members of the public;
- maintain the effective conduct of public affairs through free and frank expression of opinions between or to members and local authority employees in the course of their duty or the protection of such people from improper pressure or harassment;
- maintain legal professional privilege;
- enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- prevent the disclosure or use of official information for improper gain or improper advantage.

Regarding these ‘other’ reasons, a public interest balancing test applies. In these cases the kaunihera must consider whether the withholding of that information is outweighed by other considerations that render it desirable, in the public interest, to make that information available. Decisions about the release of information under LGOIMA need to be made by the appropriately authorised people within each kaunihera, and elected members must work within the rules adopted by each kaunihera.

The LGOIMA also sets the rules that govern public access to meetings and the grounds on which that access can be restricted, which occurs when meetings consider matters that are confidential.

### **The role of the Ombudsman**

An Ombudsman is an Officer of Parliament appointed by the Governor-General on the recommendation of Parliament. An Ombudsman’s primary role under the Ombudsmen Act 1975 is to independently investigate administrative acts and decisions of central and local government departments and organisations that affect someone in a personal capacity. Ombudsmen investigate complaints made under LGOIMA.

Anyone who has a complaint of that nature about a local authority may ask an Ombudsman to investigate that complaint. Investigations are conducted in private. The Ombudsman may obtain whatever information is considered necessary, whether from the complainant, the chief executive of the local body involved, or any other party. The Ombudsman’s decision is provided in writing to both parties.

If a complaint is sustained, the Ombudsman may recommend the local authority takes whatever action the Ombudsman considers would be an appropriate remedy. Any such recommendation is, however, not binding. Recommendations made to the local authority under this Act will, in general, become binding unless the local authority resolves otherwise. However, any such resolution must be recorded in writing and be made within 20 working days of the date of the recommendation.

## ***The Local Authorities (Members' Interests) Act 1968***

### **Pecuniary interests**

The LAMIA provides rules about members discussing or voting on matters in which they have a pecuniary interest and about contracts between members and the council. LAMIA has two main rules, referred to here as the contracting rule (in section 3 of the LAIMA) and the participation rule (in section 6 of the LAIMA).

- The **contracting rule** prevents a member from having interests in contracts with the local authority that are worth more than \$25,000 in any financial year, unless the Auditor-General approves the contracts. Breach of the rule results in automatic disqualification from office.
- The **participation rule** prevents a member from voting or taking part in the discussion of any matter in which they have a financial interest, other than an interest in common with the public. The Auditor-General can approve participation in limited circumstances. Breach of the rule is a criminal offence, and conviction results in automatic disqualification from office.

Both rules have a complex series of subsidiary rules about their scope and exceptions.

The LAMIA does not define when a person is “concerned or interested” in a contract (for the purposes of section 3) or when they are interested “directly or indirectly” in a decision (for the purposes of section 6). However, it does set out two situations where this occurs. These are broadly where:

- a person’s spouse or partner is “concerned or interested” in the contract or where they have a pecuniary interest in the decision; or
- a person or their spouse or partner is involved in a company that is “concerned or interested” in the contract or where the company has a pecuniary interest in the decision.

However, in some situations outside the two listed in the Act a person can be “concerned or interested” in a contract or have a pecuniary interest in a decision, for example, where a contract is between the members family trust and the kaunihera.

### **Non-pecuniary conflicts of interest**

In addition to the issue of pecuniary interests, which are addressed through the LAMIA, there are also legal rules about conflicts of interest more generally. These are rules that apply to non-pecuniary conflicts of interest and include the common law rule about bias. To determine if bias exists, consider this question: Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?

The question is not limited to actual bias but relates to the appearance or possibility of bias. This is in line with the principle that justice should not only be done but should be seen to be done. Whether or not you believe that you are not biased is irrelevant. The focus should be on the nature of any conflicting interest or relationship, and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- statements or conduct indicate that a member has predetermined the decision before hearing all relevant information (that is, they have a “closed mind”), or
- a member has close relationship or involvement with an individual or organisation affected by the decision.

## Seeking exemption from the Auditor-General

Members who have a financial conflict of interest that is covered by section 6 of the LAMIA, may apply to the Auditor-General for approval to participate. The Auditor-General can approve participation in two ways.

1. Section 6(3)(f) allows the Auditor-General to grant an exemption if, in their opinion, a member's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor when voting or taking part in the discussion.
2. Section 6(4) allows the Auditor-General to grant a declaration enabling a member to participate if they are satisfied that:
  - a. the application of the rule would impede the transaction of business by the council; or
  - b. it would be in the interests of the electors or residents of the district/region that the rule should not apply.

More information on non-pecuniary conflicts of interest and how to manage them can be found in the Auditor-General's Guidance for members of local authorities about the law on conflicts of interest.

## ***Protected Disclosures (Protection of Whistleblowers) Act 2022***

The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and to provide protection for employees and other workers who report concerns. A protected disclosure occurs when the discloser believes, on reasonable grounds, that there is, or has been, **serious wrongdoing** in or by their organisation, they disclose in accordance with the Act, and they do not disclose in bad faith.

A discloser is a person who has an employment type relationship with the organisation they are disclosing about and includes current and former employees, homeworkers, secondees, contractors, volunteers, and board members. Serious wrongdoing includes:

- an offence
- a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial
- an unlawful, corrupt, or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government

Kaunihera need to have appropriate internal procedures that identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act, and explain how the organisation will provide practical assistance and advice to disclosers. A discloser does not have to go through their organisation first. An appropriate authority can include the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General. Ombudsmen are also an "appropriate authority" under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

## ***The Serious Fraud Office Act 1990***

The Serious Fraud Office (SFO) is the lead law enforcement agency for investigating and prosecuting serious financial crime, including bribery and corruption. The SFO has an increasing focus on prevention by building awareness and understanding of the risks of corruption – noting that

the extent of corruption is influenced by organisational frameworks and support given to staff. The SFO encourages organisations to adopt appropriate checks and balances and build a culture based on ethics and integrity.

The four basic elements of best practice organisational control promoted by the SFO involve:

- Operations people with the right skills and experience in the relevant areas, with clear accountability lines.
- Risk mitigation to manage risks that can't be eliminated through segregation, discretion reduction, delegations, management oversight, and audit.
- Basic standards of behaviour moderated by a Code of Conduct, ongoing interests and gift processes (not simply annual declaration), plenty of opportunities and ways to speak up, disciplinary options, training and support.
- Design and oversight based on a clear understanding of operational realities (design, governance, management, audit, investigation, business improvement, and legal).

### ***The Local Government (Pecuniary Interests Register) Act 2022***

Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, a local authority must now keep a register of the pecuniary interests of their members, including community and local board members. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:

- the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the 30 main business activities of each of those companies,
- the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
- if the member is employed, the name of each employer of their employer and a description of the main business activities of those employers,
- the name of each trust in which the member has a beneficial interest,
- the name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the local authority, local board, or community board to which the member has been elected,
- the title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,
- the location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

Each council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.

## ***The Health and Safety Act at Work Act 2015***

The Health and Safety at Work Act 2015 aims to create a new culture towards health and safety in workplaces. A council is termed a Person Conducting a Business or Undertaking (PCBU) - all involved in work, including elected members, are required to have a duty of care. Elected members are "officers" under the Act and officers are required to exercise due diligence to ensure that the PCBU complies with its duties. However, certain officers, such as elected members, cannot be prosecuted if they fail in their due diligence duty. Despite this, as officers, the key matters to be mindful of are:

- stepping up and being accountable,
- identifying and managing your risks,
- making health and safety part of your organisation's culture, and
- getting your workers involved.

Councils have wide discretion about how these matters might be applied, for example:

- adopting a charter setting out the elected members' role in leading health and safety – with your chief executive,
- publishing a safety vision and beliefs statement,
- establishing health and safety targets for the organisation with your chief executive,
- ensuring there is an effective linkage between health and safety goals and the actions and priorities of your chief executive and their senior management, or
- having effective implementation of a fit-for-purpose health and safety management system.

Elected members, through their chief executive need to ensure their organisations have sufficient personnel with the right skill mix and support, to meet the health and safety requirements. This includes making sure that funding is sufficient to effectively implement and maintain the system and its improvement programmes.

## ***The Harmful Digital Communications Act 2015***

The Harmful Digital Communications Act (HDCA) was passed to help people dealing with serious or repeated harmful digital communications. The Act covers any harmful digital communications (like text, emails, or social media content) which can include racist, sexist and religiously intolerant comments – plus those about disabilities or sexual orientation and sets out 10 communication principles for guiding communication online. Under the Act a digital communication should not:

- disclose sensitive personal facts about an individual
- be threatening, intimidating, or menacing
- be grossly offensive to a reasonable person in the position of the affected individual
- be indecent or obscene
- be used to harass an individual
- make a false allegation
- contain a matter that is published in breach of confidence
- incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual
- incite or encourage an individual to commit suicide
- denigrate an individual by reason of colour, race, ethnic or national origins, religion, gender, sexual orientation or disability





**Meeting:** Council  
**Meeting Date:** 22 February 2023  
**Subject:** Local Governance Statement  
**File No:** 103000

## **1 Purpose**

The purpose of this report is to adopt Council's "Local Governance Statement" (as drafted). This document is required to be adopted within 6 months of each triennial election.

## **2 Background**

A Local Governance Statement is a collection of information about the processes that Council uses to engage with the district's residents, as specified in Section 40 of the Local Government Act 2002.

It outlines how Council makes decisions and shows how residents can influence those processes. It also promotes local democracy by providing the public with information on ways it can influence local democratic processes.

## **3 Summary of Local Governance Statement**

The following are the areas covered in the Local Governance Statement:

- Council's Functions, Responsibilities and Activities
- Local Legislation and Bylaws
- Electoral Systems
- Representation Options
- Roles and Conduct of Elected Members and Chief Executive Officer
- Governance structures and processes, membership and delegation
- Conduct of Meetings
- Consultation Policy
- Policies for liaising with, and memoranda or agreements with, Maori
- Management Structure and relationship between management and elected members
- Equal Employment Opportunities Policy
- Key Approved Planning and Policy Documents
- Systems for Public Access and Participation
- Requests for Official Information

## **4 Appendix**

Appended to this report is Council's Local Governance Statement.

## 5 **RECOMMENDATIONS**

1. That the report "Local Governance Statement" be received.
2. That Council adopts the Local Governance Statement for the current triennium.

Peter Christophers, BBS, ACA

**Group Manager Finance and Corporate Services**

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## **LOCAL GOVERNANCE STATEMENT**

**(Adopted 22 February 2023)**

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## **1 What Is a Local Governance Statement?**

A Local Governance Statement is a collection of information about the processes that Council uses to engage with the District's residents.

It outlines how Council makes decisions and shows how residents can influence those processes. It also promotes local democracy by providing the public with information on ways it can influence local democratic processes.

Council's local governance statement is a requirement of the Local Government Act 2002. Council is required to produce a new local governance statement within six months following each triennial election.

## **2 Council's Functions, Responsibilities and Activities**

The purpose of the Kawerau District Council (hereafter referred to as Council), as outlined in the Local Government Act 2002, is to enable democratic local decision making and action by, and on behalf of, communities and to promote the social, economic, environmental and cultural well-being of communities in the present and for the future. The Council has overall responsibility and accountability for the proper direction and control of the Council's activities in pursuit of community outcomes. This responsibility includes:

- Formulating the District's strategic direction in conjunction with the community - the Long Term Plan (LTP).
- Determining the services and activities to be undertaken.
- Managing the principal risks.
- Administering various regulations and up-holding the law.
- Monitoring the delivery of the LTP and Annual Plan.
- Ensuring the integrity of management control systems.
- Safeguarding the public interest.
- Ensuring effective succession of elected members.
- Reporting to the community.

### **3 Local Legislation and Bylaws**

In addition to the legislation that applies to all local authorities, the Kawerau District Council has adopted a number of local bylaws which apply specifically to the district. These are as follows:

Alcohol Control Bylaw 2022

Dog Control Bylaw 2019

Freedom Camping Bylaw 2019

General Bylaw:

General Bylaw Part 1: Introductory 2009 (Amended 2012)

General Bylaw Part 2: Public Places 2013 (Amended 2019)

General Bylaw Part 3: Trading in Public Places 2009

General Bylaw Part 5: Advertising Signs 2013

General Bylaw Part 7: Control of Stock, Poultry and Bees 2019

General Bylaw Part 8: Wastewater Drainage 2010

General Bylaw Part 9: On-site Wastewater Disposal Systems 2010

General Bylaw Part 10: Trade Waste 2010

General Bylaw Part 11: Solid Waste 2010

General Bylaw Part 12: Cemetery 2010

General Bylaw Part 13: Leisure and Recreation Facilities 2010

Speed Limits Bylaw 2011

Traffic and Parking Bylaw 2011

Water Supply Bylaw 2009

### **4 Electoral Systems**

The Local Electoral Act 2001 specifies the electoral systems available to councils:

#### **4.1 "First Past the Post" and "Single Transferable Vote" Systems**

The Council currently operates its elections under the "First Past the Post" (FPP) electoral system. Electors vote by indicating their preferred candidate(s) and the candidate(s) who receives the most votes is declared the winner, regardless of the proportion of votes that candidate(s) obtained.

The other option permitted under the Local Electoral Act 2001 is the "Single Transferable Vote" system (STV). Electors rank candidates in order of preference. The number of votes required for a candidate to be elected (called the quota) depends on the number of positions to be filled and the number of valid votes.

The number of candidates required to fill all vacancies is achieved:

- First by the counting of electors' first preferences
- Then by a transfer of a proportion of votes received by any candidate where the number of votes for that candidate is in excess of the quota
- Then by the exclusion of the lowest polling candidates and the transfer of these votes in accordance with voters' second preferences.

#### 4.2 Deciding on which Electoral System to use

Under the Local Electoral Act 2001:

- Council can resolve to change the electoral system to be used at the next two elections.
- Council can conduct a binding poll of eligible electors on which electoral system to use.
- Electors can demand that a binding poll be undertaken.
- Council must give public notice not later than 19 September 2023 of the electors right to demand a poll on the electoral system to be used for the 2025 Council elections

A poll can be initiated by at least five per cent of eligible electors signing a petition demanding that a poll be held. Once changed, an electoral system must be used for at least the next two triennial general elections, i.e. the electoral system cannot be changed for one election and then changed back for the next election.

#### 4.3 The Voting System for Council's Triennial Elections

If voters want to institute STV voting for the Council 2025 election, deadlines for this to happen are:

- 12 September 2023 – last date by which Council can resolve to use STV for the 2025 election without a binding poll.
- 21 February 2024 – last date by which petition for a poll on STV for the 2025 election, signed by at least five per cent of eligible voters, can be received.
- 21 May 2024 – date by which poll on STV/FPP for the 2025 election must be conducted if Council has so decided, or an eligible petition requesting a poll has been received.

If a poll has been conducted for an election, or the voting system has been changed, another poll or change cannot be made for that or the following election.

## 5 Representation Options

### 5.1 Maori Wards and Constituencies

The Local Electoral Act 2001 gives Council the ability to establish one or more separate wards for Maori electors. If Council decides to establish Maori wards for the 2025 elections, then a resolution must be passed by 25 November 2023 which will then apply to the 2025 and 2028 Council elections. A resolution to establish Maori made after the 25 November 2023 will apply to the 2028 and 2031 Council elections.

If Maori wards are established, the numbers of seats in that ward will be allocated according to the percentage of voters who are registered on the Maori roll.

### 5.2 Electoral Representation and Boundary Review

Council is required to review its representation arrangements at least once every six years. This review must include the following:

- The number of Elected Members (within the legal requirement to have a minimum of six and a maximum of thirty members, including the Mayor).
- Whether the Elected Members (other than the Mayor) shall be elected by the entire District, or whether the District will be divided into wards for electoral purposes, or whether there will be a mix of 'at large' and 'ward' representation.
- If election by wards is preferred, the boundaries and names of those wards and the number of members that will represent each ward.
- Whether or not to have separate wards for electors on the Maori roll.
- Whether to have Community Boards and if so, how many, their boundaries and membership and whether to subdivide a community for electoral purposes.

Council must follow the procedure set out in the Local Electoral Act 2001 when conducting this review and should also follow guidelines published by the Local Government Commission. The Act gives people the right to make written submissions to Council and the right to be heard in support of their written submissions if they wish. People also have the right to appeal any decisions on the above to the Local Government Commission, which will make a binding decision on the appeal.

Further details on the matters that Council must consider in reviewing its membership and the basis of election can be found in the Local Electoral Act 2001.

Council resolved for the 2022 elections that:

- "First past the Post" electoral system would be used.
- The election of the Council over the whole District will provide fair and effective representation for individuals and the Kawerau community generally.



- The existing number of members, namely nine (9) will provide fair and effective representation for individuals and the Kawerau community generally.
- There be no communities and community Boards due to the size of the District.
- That Council would not establish Maori ward(s) for the 2022 elections

As a result, Council retained the existing membership for the 2022 Triennial Elections, which is:

- Mayor
- Eight Councillors

As Council undertook a representation and electoral system review for the 2022 elections, it need not undertake a representation and electoral review for the 2025 elections but has undertaken to review whether or not to have separate wards for electors on the Maori role for the 2025 elections.

### 5.3 Changing the District's Boundaries or Functions

The Local Government Act 2002 sets out procedures that must be followed during proposals to:

- Make changes to the boundaries of the District.
- Create a unitary authority, e.g., transfer all of the functions of the Bay of Plenty Regional Council to Council, or vice versa.
- Transfer a particular function or functions to another Council.

Proposals for a boundary alteration or transfer of functions from one Council to another are considered by the Local Government Commission.

The Local Government Commission will also deal with proposals for the establishment of a new District, abolition of Council or the creation of a unitary authority.

Further information on these requirements can be found in the Local Government Act 2002 (in particular Schedule 3).

The Local Government Commission has also prepared guidelines on procedures for local government reorganisation.

## 6 **Roles and Conduct of Elected Members and Chief Executive Officer**

The roles and conduct of the Mayor and Councillors are outlined in the Code of Conduct, which was adopted by Council 22 February 2023.

Council's elected members are responsible for:

1. Representing the Community

- Making decisions on the promotion of community well-being.
- Keeping in contact with the Community, ascertaining its views and putting these to Council.
- Advocating for the community with other bodies such as central government or private sector bodies (e.g. the major employer in the district).
- Explaining Council decisions to affected parties.

## 2. Setting Policy

What activities should the Council engage in and why, what regulatory intervention should the Council make and why etc. This policy setting takes place within a framework of:

- Things that the Council must do by law and things that it is prohibited from doing by law.
- Community needs and preferences.

The rule of thumb is that the Council decides what it should be doing, staff provide policy advice on issues and carry out the decisions and Council reviews the performance of the organisation in achieving those objectives.

## 3. Monitoring and Review

Monitoring involves evaluating a policy or performance during a particular project. Review is about evaluating performance at a predetermined time.

The most visible review mechanism is Council's Annual Report, which sets out the performance of the Council against its objectives over the preceding year.

## 4. Role and Powers of the Mayor

The role of the Mayor is to provide leadership to:

- the other members of council, and
- the people of the Kawerau district

It is the role of the Mayor to lead the development of Council's plans, policies and budgets for consideration by councillors.

The Mayor has the following powers:

- to appoint the deputy Mayor
- to establish committees for Council
- to appoint the chairperson for each committee of Council

## 7 Governance

Councillors are elected by the community and given responsibility for the overall governance of the District, which includes setting the long-term direction and ensuring that Council acts in the best interests of its community.

Section 39 of the Local Government Act 2002 outlines the governance principles for local authorities, which are:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community; and*
- (b) a local authority should ensure that the governance structures and processes are effective, open, and transparent; and*
- (c) a local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities; and*
- (d) a local authority should be a good employer; and*
- (e) a local authority should ensure that the relationship between elected members and management of the local authority is effective and understood."*

Council has eight Councillors and a Mayor who are elected from the District as a whole.

NAME	ADDRESS	PHONE
Cr F K N Tunui (Faylene) (Deputy Mayor)	207 Valley Road <b>KAWERAU 3127</b>	306 9009 (office) 022 320 8840 <a href="mailto:faylene.tunui@gmail.com">faylene.tunui@gmail.com</a> <a href="mailto:Mayor@kaweraudc.govt.nz">Mayor@kaweraudc.govt.nz</a>
Cr R Brooking (Rowna)	15 Robinson Street <b>KAWERAU 3127</b>	021 775 147 <a href="mailto:Rowena.andrews101@gmail.com">Rowena.andrews101@gmail.com</a> <a href="mailto:Rowena.Andrews@kaweraudc.govt.nz">Rowena.Andrews@kaweraudc.govt.nz</a>
Cr W Godfery (Warwick)	56 Peter Lippa Drive <b>KAWERAU 3127</b>	323 7063 (res) 027 204 5278 <a href="mailto:warwick.godfery@gmail.com">warwick.godfery@gmail.com</a> <a href="mailto:Warwick.Godfery@kaweraudc.govt.nz">Warwick.Godfery@kaweraudc.govt.nz</a>
Cr C J Ion (Carolyn)	125a Onslow Street <b>KAWERAU 3127</b>	) 323 9046 (res) 027 415 6458 <a href="mailto:ion.family@xtra.co.nz">ion.family@xtra.co.nz</a> <a href="mailto:Carolyn.Ion@kaweraudc.govt.nz">Carolyn.Ion@kaweraudc.govt.nz</a>
Cr B J Julian (Berice)	14 Domett Street <b>KAWERAU 3127</b>	323 9190 (res) <a href="mailto:berice@xtra.co.nz">berice@xtra.co.nz</a> <a href="mailto:Berice.Julian@kaweraudc.govt.nz">Berice.Julian@kaweraudc.govt.nz</a>
Cr S Kingi (Sela)	43 Domett Street <b>KAWERAU 3127</b>	323 6009 (res) 027 766 5023 <a href="mailto:kingiboss77@gmail.com">kingiboss77@gmail.com</a> <a href="mailto:Sela.Kingi@kaweraudc.govt.nz">Sela.Kingi@kaweraudc.govt.nz</a>
Cr A Rangihika (Aaron) – Deputy Mayor	55 Peter Lippa Drive <b>KAWERAU 3127</b>	323 8223 (res) 021 159 0794 <a href="mailto:aetkrangihika@gmail.com">aetkrangihika@gmail.com</a> <a href="mailto:Deputy.Mayor@kaweraudc.govt.nz">Deputy.Mayor@kaweraudc.govt.nz</a>
Cr J Ross (Justin)	32 Hobson Street <b>KAWERAU 3127</b>	027 862 2237 <a href="mailto:justinrossforcouncil@gmail.com">justinrossforcouncil@gmail.com</a> <a href="mailto:Justin.Ross@kaweraudc.govt.nz">Justin.Ross@kaweraudc.govt.nz</a>
Cr R G K Savage (Rex)	28 Valley Road <b>KAWERAU 3127</b>	323 7287 (res) <a href="mailto:rgksavage@gmail.com">rgksavage@gmail.com</a> <a href="mailto:Rex.Savage@kaweraudc.govt.nz">Rex.Savage@kaweraudc.govt.nz</a>

## Standing Committees

Council may create one or more committees of Council. A committee chairperson is responsible for presiding over meetings of the committee and ensuring that the committee acts within the powers delegated by Council. A committee chairperson may be removed from office by resolution of Council.

Council has established two standing committees:

- the Regulatory and Services Committee and
- the Audit and Risk Committee

The Regulatory and Services Committee comprises the Mayor and all Councillors.

The Audit and Risk Committee comprises the Mayor, Councillors: Ion, Rangihika, and Julian, as well as Mr Philip Jones (external appointee).

The respective responsibilities of Council and the committees are as follows:

### **Council**

- Rating
- Making By-laws
- Long Term Plan
- Annual Plan
- Annual Report
- Funding Policy
- Investment and Borrowing Management Policies
- Democracy
- Governance
- Strategic Plan
- Strategic Issues
- Audit
- Property acquisition/disposal
- Consultation/Relationship with Maori

### **Regulatory and Services Committee**

#### Regulatory

Resource Management

- District Plan
- Submissions on Regional Plans
- Resource Consents
- Subdivisions

Health  
Building  
Plumbing  
Drainage  
Sale of Liquor  
Dangerous Goods  
By-Laws  
Stock Control

#### Services

Swimming Pool  
Parks & Reserves  
Roading including CBD

Footpaths  
Water  
Stormwater  
Wastewater  
Refuse/Zero Waste Plant  
Conveniences  
Cemetery  
Dog Control  
Civil Defence

Community Services  
Economic Development  
Library/Museum

Council Facilities  
Leases  
Rentals  
Asset Management  
Investments  
Loans  
Accounting  
Grants  
Noise Control  
Retirement Village

The Chairperson of the Regulatory and Services Committee is Councillor Carolyn Ion and Deputy Chairperson is Councillor Berice Julian.

### **Audit and Risk Committee**

The purpose of the Audit and Risk Committee is to:

- Monitor Council's external and internal audit processes
- Ensure that Council fulfils its legal responsibilities
- Review/monitor existing corporate policies and recommend new policies
- Provide a communication link between management, auditors and Council
- Support measures to improve management performance and internal controls
- Support the professionals independence, effectiveness and accountability of the Risk Management Framework
- Regularly review Council's performance throughout the year to ensure that services are delivered efficiently and close to budget

The Chairperson of the Committee is Mr Philip Jones and Deputy Chairperson is the Mayor.

### Meeting Cycle

Council and Committee Meetings are scheduled on a monthly cycle. The following is the timetable for 2023:

	<b>REGULATORY &amp; SERVICES COMMITTEE</b>	<b>ORDINARY COUNCIL</b>	<b>AUDIT &amp; RISK COMMITTEE</b>
	<b>MEETING TIME: 9.00AM</b>	<b>MEETING TIME: 9.00AM</b>	<b>MEETING TIME: 1.00PM</b>
	<b>MEETING DATE</b>	<b>MEETING DATE</b>	<b>MEETING DATE</b>
<b>FEBRUARY 2023</b>	8	22	13
<b>MARCH 2023</b>	15	29	
<b>APRIL 2023</b>	12	26	3
<b>MAY 2023</b>	17	31	
<b>JUNE 2023</b>	14	28	12
<b>JULY 2023</b>	12	19	
<b>AUGUST 2023</b>	16	30	7
<b>SEPTEMBER 2023</b>	13	27	
<b>OCTOBER 2023</b>	11	25	2
<b>NOVEMBER 2023</b>	15	29	
<b>DECEMBER 2023</b>	13	13	4

## **8 Conduct of Meetings**

The legal requirements for Council meetings are set down in the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 (LGOIMA). All Council and Committee meetings must be open to the public unless there is reason to consider some item 'in committee' (i.e., these items are deemed to be confidential and members of the public will be asked to leave the meeting until discussion on the item has been completed). Although meetings are open to the public, members of the public do not have speaking rights except during the public forum section of the meeting.

A period of thirty minutes is set aside for a public forum at the start of each Ordinary Council and the Regulatory and Services Committee meetings which is open to the public. This period may be extended by a vote by members. Speakers may address meetings on any subject. However, issues raised must not include those subject to legal consideration, or be issues which are confidential, personal or the subject of a formal hearing.

Each speaker during the public forum is permitted to speak for a maximum of three minutes. However, the chairperson has the discretion to extend the speaking time. Standing orders are suspended for the duration of the public forum. Council and committee, at the conclusion of the public forum, may decide to take appropriate action on any of the issues raised. With the permission of the chairperson, members may ask questions of speakers during the period reserved for public forum. Questions by members are to be confined to obtaining information or clarification on matters raised by the speaker.

The LGOIMA contains a list of the circumstances where Council may consider items with the public excluded. (These circumstances generally relate to protection of personal privacy, professionally privileged or commercially sensitive information and the maintenance of public health, safety and order.)

The Council agenda is a public document, although parts of it may be withheld if the above circumstances apply. The Mayor or committee chairperson is responsible for maintaining order at meetings and may, at his or her discretion, order the removal of any member of the public for disorderly conduct, or remove any member of Council who does not comply with standing orders. Minutes of meetings must be kept as evidence of the proceedings of the meeting. These must be made publicly available, subject to the provisions of the LGOIMA.

For an ordinary meeting of Council, at least fourteen days' notice of the time and place of the meeting must be given. Extraordinary meetings generally can be called on three working days' notice. During meetings, the elected members must follow standing orders (a set of procedures adopted by Council for conducting its meetings). Council may suspend standing orders by a vote of seventy five per cent of the members present and voting.

## 9 Significance and Engagement Policy

Council adopted the Significance and Engagement Policy prior to the adoption on the 2021 – 2031 Long Term Plan. The policy comprises the following:

### 9.1 Policy Objectives

The objectives of this policy are:

- To enable Council and its communities to identify the degree of significance attached to particular issues, proposals, decisions, matters, assets and activities;
- To inform Council from the beginning of a decision-making process about the level and form of engagement required; and
- To provide clarity about how and when communities can expect to be engaged in decisions made by Council.

### 9.2 Principles

Council's approach to engagement is underpinned by the following principles:

- Council needs to engage with communities and interested parties to understand their views and preferences.
- In general, the more significant an issue, proposal, decision, matter, asset or activity, the greater the need for engagement.

### 9.3 Definitions

**Community** means a group of people who live in the Kawerau District and have a particular characteristic or set of characteristics in common.

**Engagement** means a public process in which the community and interested parties are invited to contribute to Council decisions about an issue, matter, proposal or decision. Forms of engagement range from providing information to empowering the community to make a decision. An Engagement Guide is attached as a Schedule to this policy.

**Early engagement** means Council engagement with a community or interest party to seek input before the development or release of a draft proposal about any issue, proposal, decision or other matter subject to engagement.

**Interested parties** means individuals or groups of people who are likely to be affected by, or to have an interest in an issue, matter, proposal or decision which concerns, or is before Council.

**Local Government Act** means the Local Government Act 2002 and its amendments.

**The public** means the community of Kawerau and interested parties.

**Significance** in relation to any issue, proposal, decision, or other matter that concerns or is before a local authority, means the degree of importance of the issue, proposal, decision, or matter, as assessed by the local authority, in terms of



its likely impact on, and likely consequences for:

- a) the district or region
- b) any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter
- c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.

**Significant** in relation to any issue, proposal, decision, or other matter, means that the issue, proposal, decision, or other matter has a high degree of significance.

**Special consultative procedure** means the procedure set out in section 83 of the Local Government Act 2002.

**Strategic asset** as defined in Section 5 of the Local Government Act is “an asset or group of assets that the local authority needs to retain if the local authority is to maintain the local authority’s capacity to achieve or promote any outcome that the local authority determines to be important to the current or future well-being of the community; and includes—

- a) any asset or group of assets listed in accordance with section 76AA(3) by the local authority; and
- b) any land or building owned by the local authority and required to maintain the local authority’s capacity to provide affordable housing as part of its social policy; and
- c) any equity securities held by the local authority in—
  - i) a port company within the meaning of the Port Companies Act 1988;
  - ii) an airport company within the meaning of the Airport Authorities Act 1966”

#### 9.4 Policy Statement

- Council will apply a consistent and transparent approach to engagement.
- Council will use the special consultative procedure set out in the Local Government Act.
- For all other issues, proposals, decisions, matters, assets and activities, Council will determine the appropriate level of engagement with reference to the second schedule – Engagement Guide (of the policy) before a decision is made.
- The groups and organisations listed in the third schedule will be included in Council engagement processes for all but the lowest level decisions. Alternative or additional groups may be included on a case-by-case basis to reflect the nature of the matter subject to engagement.

#### 9.5 Determining Significance

A matter is likely to have a higher degree of significance and therefore a greater need for engagement if it is affected by a number of the criteria listed below:

- It relates to a strategic asset as identified in the first schedule (of the policy)
- It affects the level of service of a Council activity to more than a minor extent
- It will affect a large proportion of the public
- Public interest is high
- The likely consequences are controversial
- There is likely to be a high impact on present and future community wellbeing, recognising Māori cultural values and the relationship of Māori to land and water

It will require either:

- a) unbudgeted expenditure of more than five percent of the total operational budget for the activity for that financial year; or
- b) capital expenditure of more than 2.5 percent of the total value of Council's fixed assets.

The full policy is available on Council's website: <http://www.kaweraudc.govt.nz>

## **10 Management Structures and Relationships**

Council is supported by a professional corporate organisation, led by the Chief Executive Officer. Officers provide policy advice and are responsible for implementing policies to achieve the results that Council wants.

The Chief Executive Officer and staff are responsible for managing day-to-day issues and implementing Council's decisions and policies. The organisation is structured into four departments. They are:

1. Operations and Services
2. Planning, Compliance and Capability Services
3. Economic and Community Development
4. Communication and Engagement
4. Finance and Corporate Services

10.1 Chief Executive Officer

The Local Government Act 2002 requires Council to employ a Chief Executive Officer whose responsibilities are to employ other staff on behalf of the Council, implement decisions and provide advice. Under the Local Government Act 2002, the Chief Executive Officer is the only person who may lawfully give instructions to a staff member. Any complaint about individual staff members should therefore be directed to the Chief Executive Officer, rather than the elected members.

Russell George is Council's Chief Executive Officer.

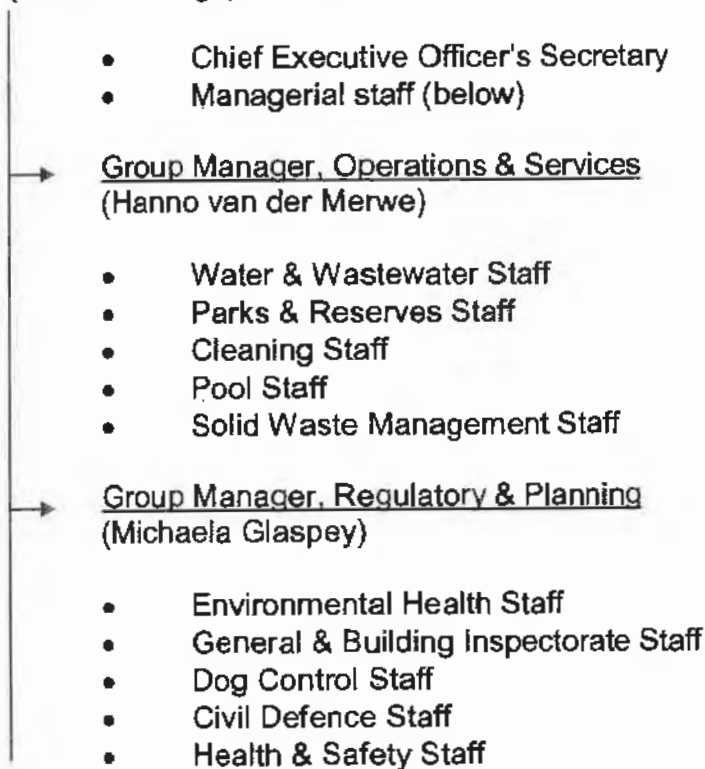
His contact details are: Russell George  
Chief Executive Officer  
Kawerau District Council  
Private Bag 1004  
KAWERAU 3169

Email: [russell.george@kaweraudc.govt.nz](mailto:russell.george@kaweraudc.govt.nz)  
Telephone: 07 306 9009

Mobile: 0274 324 427

10.2 Management and Staff Structure

Chief Executive Officer  
(Russell George)



- Economic and Community Development Manager,  
(Lee Barton)
  - Economic Development Staff
  - I-Site and Facilities Staff
  - Event Co-ordination/Youth Development Staff
- Communication and Engagement Manager,  
(Tania Humberstone)
  - Communication staff
- Group Manager, Finance and Corporate Services  
(Lee-Anne Butler)
  - Administration Staff
  - I. T. Staff
  - Finance Staff
  - Library/Museum Staff
  - Customer Services Staff

### 10.3 Primary Responsibilities of the Chief Executive Officer and the Individual Managers

Chief Executive Officer – R George C.A., MBA

Responsible to the Council to plan, lead, organise and manage the operations of the Council in the most cost efficient manner having due regard for the policies of the Council, the law and social responsibilities.

Group Manager, Operations and Services – J van der Merwe B.E. (Civil), Phd.

Responsible to the Chief Executive Officer for the efficient management of the Water, Wastewater, Solid Waste, Roading, Halls, Public Toilets, Cemetery, Parks & Reserves and Pool operations of the Council in accordance with established policy, objectives, targets and the directives of the Chief Executive Officer.

Group Manager, Regulatory and Planning – M Glaspey LLB

Responsible to the Chief Executive Officer for the efficient management of all of the Council's Regulatory, Planning and Emergency Management activities in accordance with established policy, objectives, targets and the directives of the Chief Executive Officer.

Group Manager, Finance and Corporate Services – L Butler BMS C.A

Responsible to the Chief Executive Officer for the efficient management of the Council's Library and Museum activities as well as the financial, administrative and customer

service operations in accordance with established policy, objectives, targets and the directives of the Chief Executive Officer.

Economic and Development Manager – L Barton

Responsible to the Chief Executive Officer for the efficient management of the Council's economic development activity as well as community wellbeing, youth development, council facilities and I-site activities

Communication & Engagement Manager – T Humberstone

Responsible to the Chief Executive Officer for the efficient management and delivery of council's communication and engagement activities. Also manage council's investment properties including the Porritt Glade Lifestyle Retirement Village and residential developments.

## **11 Equal Employment Opportunities (EEO) Policy**

The Local Government Act 2002 requires Council to act as a 'good employer'.

Council operates an Equal Employment Opportunity policy. This policy states that:

*"The Employer is committed to the principle of equal opportunity in the recruitment, employment, training and promotion of its employees. The Employer will provide a positive environment and will implement a purposeful programme of action to ensure that its activities are carried out with an awareness of, and intent to eliminate discrimination in the areas of race, colour, ethnic or national origin, gender, religion, political beliefs, marital status, family responsibilities, sexual orientation, disability or age".*

## **12 Key Approved Planning and Policy Documents**

The following have been identified as key Council planning and policy documents. To view or find out more about these plans, reports, policies and strategies, please contact the Council.

### **12.1 The Long Term Plan (LTP)**

The Long-Term Plan (LTP):

- Sets out Council's priorities over the medium to longer term (covers the next ten years).
- Sets out how Council intends to contribute to the Community Outcomes

The purpose of the LTP is to:

- Describe the activities of Council.
- Describe the Community Outcomes.
- Provide integrated decision-making and co-ordination.
- Provide a long-term focus for the Council.
- Provide a basis for accountability of Council to the Community.

In accordance with the legislative requirements, Council produced a Long Term Plan for 2021 - 2031.

## 12.2 Council's Annual Plan

The Annual Plan includes information on Council's policies, actions and funding that are to be undertaken over the coming financial year compared to what was proposed in the Long Term Plan for that year.

The Annual Plan is Council's main means of communicating its projects and programmes to the public in the years that a Long Term Plan is not produced. If the Annual Plan includes significant or material differences from what was in the Long Term Plan for the financial year, then the special consultative procedure must be used prior to the adoption of the Annual Plan which stipulates that the public must be given a minimum of one month to make submissions. Council then considers the submissions before adopting its approved Annual Plan and confirming the rates for the next financial year.

The Annual Plan must include:

- The nature and scope of the significant services to be undertaken.
- The performance measures and other measures used to monitor, measure and review Council's performance.
- An outline of the indicative costs (i.e., of proposed expenditure) and the sources of funds.
- An outline of Council's funding and financial policies.
- Forecast financial statements for the year, including:
  - An estimated and forecast statement for the beginning and end of the financial year.
  - An operating statement (reflecting forecast revenues and expenses).
  - A statement of cash flows.
- An explanation of changes (variations) between the Annual Plan and the Long Term Plan.

### 12.3 Council's Annual Report

After the end of the financial year, Council publishes an Annual Report which contains audited accounts for the previous financial year. The Annual Report must:

- Compare the actual performance with the proposed performance set out in the Plan.
- Comment on the performance of all organisations included in the Annual Plan.
- Be produced and adopted within four months of the end of the financial year.
- Contain an audited financial statement, set of accounts and annual financial report which assesses Council's financial performance against its budget.

### 12.4 Funding and Financial Strategies/Policies

The following strategies and policies are included in Council's Long Term Plan:

#### ***Financial Strategy***

Council must as part of the Long Term Plan, prepare a Financial Strategy for the years covered by the Long Term Plan. The purpose of the Financial Strategy is to:

- Facilitate prudent financial management by Council by providing a guide to consider proposals for funding and expenditure against, and
- Provide a context for consultation on Council's proposals for funding and expenditure

#### ***Infrastructure Strategy***

The Infrastructure Strategy is intended to help Council and the community make informed decisions about the major infrastructure decisions and investments which need to be made over the next 30 years.

The strategy outlines:

- The key infrastructure issues which must be addressed over the next 30 years
- The main options for dealing with those issues
- The implications of those options for residents and businesses in terms of cost and service delivery; and
- Council's preferred scenario for managing the issues and implications.

#### ***Revenue and Financing Policy***

Council provides a wide range of services that need to be funded. This policy outlines who pays for each activity and why.

### ***Rating Policy***

This policy specifies the rating tools that Council uses to fund the activities it undertakes.

### **12.5 Other Policies**

Council is required to consult with the community before adopting the following policies:

#### ***Development or Financial Contributions Policy***

This policy outlines in what circumstances development or financial contributions will be required from developers.

#### ***Rates Remission and Postponement Policies***

These policies outline circumstances in which Council will consider rates relief for property owners and include:

- Rate Remission for High Valued Property
- Rate Remission for Farming Property
- Rate Remission and Postponement for Development
- Rate remission and Postponement for Maori Freehold Land
- Rate Penalty Remission

### **12.6 Asset Management Plans**

In recognition of the importance of the assets that Council manages on behalf of the community, plans, to ensure that these assets will continue to provide the same level of service to the community well into the future, have been developed.

The five asset management plans are:

- 1) Water Supply
- 2) Wastewater
- 3) Stormwater
- 4) Roading
- 5) Community Facilities and Property Assets

These plans ensure that Council can continue to meet the levels of service required for essential services in the future.

## **13 Systems for Public Access and Participation**

(a) Contact details for Council:



Kawerau District Council  
Private Bag 1004  
KAWERAU 3169  
Telephone: 07 306 9009  
E-mail: [kaweraudc@kaweraudc.govt.nz](mailto:kaweraudc@kaweraudc.govt.nz)  
Website: [www.kaweraudc.govt.nz](http://www.kaweraudc.govt.nz)

(b) System for requesting Council service

Requests for Council service can be made by visiting, website, telephoning or writing to (including emails) the Council offices.

(c) Opportunities for participation in Council activities

Council offers numerous opportunities for the community to participate in the decision-making processes throughout the year, as well as in the Long Term Plan and Annual Plan submission processes. The projects and programmes outlined in the consultation document for either the Long Term Plan or Annual Plan are a result of ongoing public input and consultation with the community.

In addition, many of Council's key plans and policies are developed using community input. Council will inform residents (through newsletters and other media) when key plans and policies are being developed/reviewed that require community input or feedback.

## 14 Requests for Official Information

The purposes of the Local Government Official Information and Meetings Act 1987 are:

- To make information held by local authorities more readily available.
- To promote more open conduct of meetings.
- To promote the right of access to information.
- To protect information where it is in the public interest and for the sake of personal privacy.

All local authorities are covered by official information legislation.

### Who can request information?

Anyone - even non-New Zealand citizens or those living outside the country. Community organisations, pressure groups, the media and businesses have the same rights as individuals.

### How can requests be made?

By the person or organisation telephoning or writing to the local authority concerned. The request must be reasonably specific. No reason has to be given by the person or organisation making the request unless the information is wanted urgently.

### What is the maximum allowable response time?

Twenty working days is the maximum allowable response time. This deadline can be extended, but only if there are good reasons. If the delay is unreasonable, a complaint can be made to the Ombudsman's Office. There will be many situations where information can be supplied the same day it is requested. Requests should be responded to as quickly as reasonably possible.

### What duty is there to assist?

Every local authority has a duty to assist people in making requests for information. If the local authority does not have the information, but believes another local authority, organisation, or government department might, your request must be passed on.

### What charges can be made?

Any charge levied by Council for supplying official information must be reasonable (personal information cannot be charged for).

Council's Policy is that when Council is providing organisations and individuals with detailed financial and non-financial information, they are charged the actual costs of producing the information.

Normally the charge is for the time involved in extracting the information and the cost of photocopying.

The Ombudsman can also investigate the costs charged for any information supplied.

### What if the request is refused?

The information must be made available unless there is a reason under the Act for not releasing it. The reasons for refusal must be given. The person or organisation's right to appeal Council's decision to withhold the information to the Ombudsman must also be explained. Where a decision is made (whether to release or refuse to release official information), the Ombudsman has the function to investigate and review that decision. The jurisdiction of the Ombudsman extends to all decisions concerning official information (including any information that comes into the category of personal information).

### For what reasons could a request be refused?

Reasons could (for example) include:

- The release of the information would be likely to prejudice the maintenance of the law.
- The information, if released, would be likely to endanger any person.
- To protect a trade secret or the commercial activities of the local authority.
- To protect personal privacy.

The only reasons which can be advanced for refusal to supply official information are those specified in the legislation..

Sections 6 & 7 of the Act contain most of the reasons permissible. Some of the reasons the Act refers to must be weighed against "other considerations which render it in the public interest, to make the information available".

#### What about personal information?

An individual has the right to ask for any information about himself/herself without charge. This includes requests by members of staff.

Special rules govern the right of access to personal information. There are fewer reasons for withholding personal information.



**Meeting:** Council  
**Meeting Date:** 22 February 2023  
**Subject:** Bay of Plenty Mayoral Forum Triennial Agreement 2022- 2025  
**File No.:** 104040

## **1 Background**

This report seeks Council approval to enter into a Triennial Agreement for the Bay of Plenty Mayoral Forum.

## **2 Proposal**

The Local Government Act 2002 (LGA) requires all local authorities within each region to enter into a triennial agreement for the period until the next triennial general election. This agreement must be entered into not later than 1 March after each election. The draft Bay of Plenty Mayoral Forum Triennial Agreement is based on the 2019- 2022 Triennial Agreement but has been streamlined to better reflect the intentions of the member councils. The Agreement recognises the importance of local government authorities working together to improve the Bay of Plenty and represents the shared desire of local government in the region to work collaboratively to maximise effectiveness and efficiency and promote wellbeing in our communities.

## **3 Discussion**

The agreement recognises the importance of Local Government authorities working together to improve the Bay of Plenty and represents the shared desire of local government in the region to work collaboratively to maximise effectiveness and efficiency and promote wellbeing in our communities. Determining the strategic regional issues and opportunities over the triennium and beyond has also been included under the statement of intent. The Triennial Agreement may need to be amended by agreement at the first available opportunity, once the Resource Management reforms are in force. Also, any implications from the Future for Local Government Review will need to be considered and included if relevant. Each member Council is required to put the Triennial Agreement to their respective Councils for consideration and endorsement. Endorsements and electronic signatures of councils Mayors and Chairpersons need to be provided to Regional Council by 28 February 2023, to enable the statutory deadline to be met.

## **4 Policy and Plan Considerations**

The Triennial Agreement is not contrary to any Council Plan or Policy.

## **5 Legal Considerations**

The LGA and Resource Management Act 1991 (RMA) outline the requirements for a triennial agreement. It is up to the authorities who are party to each agreement to determine how far beyond the statutory requirements they wish to go in terms of the content and level of detail included in their agreement.

### Local Government Act 2022

Section 15 of the LGA, sets out the minimum requirements for triennial agreements which are:

1. Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement which complies with section 15 of the LGA for the period until the next triennial general election of members.
2. Each agreement must include:
  - a. Protocols for communication and coordination among local authorities,
  - b. A statement of the process for consultation on proposals for new regional council activities, and
  - c. A protocol and process in regards to funding facilities and services of significance to more than one district.
3. Each agreement may include joint committee or other joint governance arrangement information including matters to be included in the terms of reference.
4. All local authorities within each region may agree to amendments to the protocols.
5. An agreement remains in force until replaced by another agreement.
6. Each agreement must include a process to be followed if a decision of a local authority is or is expected to have consequences that will be significantly inconsistent with the agreement. The process includes the local authority identifying the inconsistency, the reason for the inconsistency, and any intention for the local authority to seek an amendment to the agreement. There are also notice provisions that must be included in the agreement.

### Resource Management Act 1991

Clause 3A of Schedule 1 to the RMA specifies that the triennial agreement must include an agreement on the consultation process to be used by the affected councils when preparing a proposed policy statement or its variation, and a change or review of a policy statement. The Resource Management reforms may affect the legal provisions within the Triennial Agreement. It is proposed that the Triennial Agreement is reviewed and amended by agreement between the signatories once any implications are confirmed.

## **6 Significance and Engagement**

Engagement with the community is not required as the recommended proposal relates to internal Council matters and are of a procedural nature.

## **7 Financial Considerations**

There are no material financial implications and this fits within allocated budgets.

## **8 RECOMMENDATIONS**

1. That the report "Bay of Plenty Mayoral Forum Triennial Agreement 2022- 2025" be received.
2. That Council notes that the Local Government Act 2002 requires not later than 1 March after each triennial general election of members, all local authorities within each region to enter into a triennial agreement covering the period until the next election.
3. That Council endorses the draft Bay of Plenty Mayoral Forum Triennial Agreement 2022- 2025.



Russell George, CA, MBA  
**Chief Executive Officer**

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**BAY OF PLENTY MAYORAL FORUM  
TRIENNIAL AGREEMENT**

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For the triennium from October 2022 to October 2025

# Bay of Plenty Mayoral Forum Triennial Agreement

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## 1 Parties to this Agreement

This is an agreement between the following councils of Local Government:

- Bay of Plenty Regional Council;
- Kawerau District Council;
- Ōpōtiki District Council;
- Rotorua Lakes Council;
- Taupō District Council;
- Tauranga City Council;
- Western Bay of Plenty District Council;
- Whakatāne District Council.

This Agreement does not place any limits on opportunities for neighbouring local authorities, Central Government agencies and non-government organisations to work jointly with Local Government within the Bay of Plenty.

## 2 Statement of Intent

This Agreement represents the shared desire of Local Government in the Bay of Plenty region to work collaboratively, to maximise effectiveness and efficiency, and to:

- Promote the social, cultural, economic and environmental wellbeing of the Bay of Plenty communities now and in the future;<sup>1</sup>
- Promote an agreed consultation process for preparation and review of the Regional Policy Statement.

Bay of Plenty Local Authorities will also collaboratively seek to determine what are the high-level strategic regional issues and opportunities over the triennium and beyond.

This Agreement is deemed to meet the requirements of section 15 of the Local Government Act 2002 ("the Act"), included in Appendix 1.

## 3 Introduction

The Act recognises that individual local authorities are only one player in the achievement of its priorities and desired outcomes, and making efficient use of its resources, and that work to promote its priorities and desired outcomes

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<sup>1</sup> As defined by the Local Government Act 2002

goes beyond individual local authority boundaries. The Act recognises that local authorities should collaborate and co-operate with one another and a variety of other organisations to find solutions to local issues. The main framework to guide collaboration and co-operation between local authorities within the Bay of Plenty region is the Triennial Agreement.

This Agreement describes why and how Councils in the Bay of Plenty region will work together and provides an opportunity for improved communication and co-ordination at all levels of Local Government in our region. This will enable democratic local decision-making and action by and on behalf of communities. It also provides the opportunity to speak with “one consistent message” to Central Government on issues affecting Local Government in our region.

#### **4 Principles of this Agreement**

The parties agree to work in good faith together for the good governance of their localities and the region. As signatories to this Agreement each local authority will:

- 1 Continue to promote coordination and application of quality public services, infrastructure and planning for the present and future communities of the Bay of Plenty, by collaborating and cooperating as considered appropriate to achieve priorities and desired outcomes.
- 2 Respect the individual roles and responsibilities of each party to this agreement and the statutory independence and accountability of each Council to its own communities and constituencies.
- 3 Recognise that issues and concerns that are shared by some communities and local authorities may be of little relevance to others, and that it is therefore appropriate to have a range of sub-agreements on local issues.
- 4 Acknowledge that collaboration among local authorities is necessary to address increasingly complex governance issues. Many issues cannot be solved by any one organisation acting alone and need joint responses.
- 5 Support the establishment of processes for communication and collaboration at both governance and management levels in ways that will give clear Bay of Plenty perspectives, and enhance the overall performance and reputation of Local Government in the region.
- 6 Recognise that shared services in the region, or joint procurement approaches with joint or separate contracting, can bring efficiencies and savings in terms of planning, administration, consultation and operations; increases in available resources and promotion of cooperative approaches to the allocation of resources.
- 7 Support processes through which all local authorities in the region can participate in identifying, delivering and funding facilities and services of significance to more than one district in the region, in a way that encourages efficiencies to be realised and opportunities to be recognised.
- 8 Recognise the value of undertaking joint processes to engage with communities, Central Government, community organisations and

regional and territorial authorities from other regions for issues that cross local authority boundaries.

- 9 Strengthen Local Government collaboration and coordination in the region in ways that enhance relationships with Central Government and other parties that can influence the wellbeing of the region and its communities.
- 10 Ensure a 'no surprises' approach with other parties to this Agreement. This will be given effect by ensuring other parties receive early notification of:
  - (a) Significant proposed decisions that may affect other parties and their communities, and
  - (b) Advice of divergent views on proposed decisions before critical public announcements are made.

## **5 General Protocols**

### **5.1 Meetings:**

Mayors/Chairs and Chief Executives of each council, party to this Agreement, will endeavour to meet regularly as per an agreed annual schedule of meetings, to give effect to this Agreement.

Any formal public communications from these meetings will be approved by all participating Councils prior to their release.

### **5.2 Significant Decisions:**

Where a significant decision or issue affects a particular Council, or its community, it should, in partnership with the other Councils of the region, have the lead role in formulating the collective response of the region's local authorities to that issue or decision.

Where a Council makes a decision that is or is likely to have consequences that are significantly inconsistent with this Agreement they will, as soon as practicable, notify all other councils in the region of:

- (a) the decision;
- (b) the inconsistency;
- (c) the reasons for the inconsistency; and
- (d) any intention of the local authority to seek an amendment to this Agreement.

## **6 New Regional Council Activities**

If the Regional Council or one of its CCOs proposes to undertake a significant new activity, and these activities are already undertaken or proposed to be undertaken by one or more territorial authorities in the region, section 16 of the Act will apply. As such, the Regional Council will, as soon as practicable, inform all territorial authorities within the region of:

- The proposal and the reasons for the proposed activity.
- The nature and scope of the proposed activity and its expected effects on the activities of the other Councils in the region.

Any such proposal will be included in the consultation document referred to in section 93A of the Act.

Where section 16 of the Act *does not* apply, but a proposed new activity is significant in terms of the Regional Council's Policy on Significance, and if a special consultative procedure (SCP) is required, the Regional Council will deliver a copy of the statement of proposal, prepared under section 83 of the Act, to all parties to allow them a reasonable opportunity to make submissions during the SCP. The process for mediation between the Regional Council and the territorial authorities if agreement is not reached at the end of the SCP will be as set out in section 16 of the Act.

Territorial authorities will be given a reasonable period of time, but no less than 20 working days, to respond to any proposal that triggers section 16 of the Act. The Regional Council agrees to fully consider any submissions and representations on the proposals made by territorial authorities within the region. The territorial authorities also acknowledge a reciprocal obligation to consult when they are proposing new activities, or changes in current activities, that may have implications for the Regional Council.

## 7 Significant Facilities and Services

Where there are facilities and services that are considered to be of significance to more than one district, an item will be scheduled for discussion at the next available Mayoral Forum meeting (as noted in the schedule of meetings) or other agreed meeting that includes all likely affected councils.

As soon as practicable, and prior to the meeting, the council(s) that has identified the significant facilities and services will contact the likely affected councils to discuss. In the event that it is not clear which councils will be affected, this can be canvassed at the meeting.

The meeting will facilitate the discussion around the facilities and services including; identifying and confirming the affected area and the process for determining the delivery and funding.

## 8 Regional Policy Statement and Plans Consultation

For the purpose of meeting the requirements of clause 3A of Schedule 1 to the Resource Management Act 1991 (Appendix 1), the consultation process to be used by affected local authorities in relation to the Regional Policy Statement is set out in the latest version of the *Protocol for Bay of Plenty RMA Policy and Plans*. The protocol also covers the agreed consultation process on district plans and regional plans.

The protocol describes when and how local authorities in the Bay of Plenty region consult in relation to Resource Management Act policy and plan preparation and changes. There are four stages of interaction and consultation covered in the protocol. They include:

- Scoping;
- Drafting;
- Notifying and submitting;
- Appeals to the Environment Court.

Each of the local authorities in the Bay of Plenty region is a party to this protocol.

## 9 Resolving Disagreement

All parties to this Agreement are committed to working strenuously, in good faith, to resolve any disagreements that may arise in relation to its application. Where a party has a significant disagreement with the position of the others, all parties will make every effort to accommodate, acknowledge or at least fairly represent the dissenting view.

Should any disagreement arise every endeavour will be made to ensure that disagreement is resolved with regard to the broader interests of the regional community and the effectiveness of local government in the Bay of Plenty region.

If the affected parties are unable to reach agreement the members may agree by majority decision to either ask Local Government New Zealand (LGNZ) or the New Zealand Law Society (NZLS) to appoint a mediator.

Should such a process be unsuccessful any of the Councils directly affected may ask the Minister of Local Government to determine the matter.

## 10 Signatories to the 2022 to 2025 Triennial Agreement

The Agreement is effective from the date of signing until such time as it is either amended by the agreement of all parties or is renewed following the next Local Government elections.

In signing this Agreement, the parties:

- recognise that co-operation and collaboration evolve as a result of successful communication and co-ordination;
- are committed to ensuring that this Agreement delivers tangible outcomes for Bay of Plenty communities; and
- intend that the operation of this Agreement should contribute to the strengthening of regional relationships.

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**Chair Doug Leeder**  
Bay of Plenty Regional Council

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**Mayor Faylene Tunui**  
Kawerau District Council

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**Mayor David Moore**  
Opōtiki District Council

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**Mayor Tania Tapsell**  
Rotorua Lakes Council

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**Mayor David Trewavas**  
Taupō District Council

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**Commissioner Chair Anne Tolley**  
Tauranga City Council

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**Mayor James Denyer**  
Western Bay of Plenty District Council

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**Mayor Victor Luca**  
Whakatāne District Council

**Dated:** \_\_\_\_\_ **2023**

# Appendix 1 – Legislative Context

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## Local Government Act 2002

### Section 15 states:

- (1) Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement under this section covering the period until the next triennial general election of members.
- (2) An agreement under this section must include—
  - a. protocols for communication and co-ordination among the local authorities; and
  - b. a statement of the process by which the local authorities will comply with section 16 in respect of proposals for new regional council activities; and
  - c. processes and protocols through which all local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than 1 district.
- (3) An agreement under this section may also include—
  - a. commitments by local authorities within the region to establish or continue 1 or more joint committees or other joint governance arrangements to give better effect to 1 or more of the matters referred to in subsection (2); and
  - b. the matters to be included in the terms of reference for any such committees or arrangements, including any delegations.
- (4) An agreement under this section may be varied by agreement between all the local authorities within the region.
- (5) An agreement under this section remains in force until it is replaced by another agreement.
- (6) If a decision of a local authority is significantly inconsistent with, or is expected to have consequences that will be significantly inconsistent with, the agreement under this section that is currently in force within the region, the local authority must, when making the decision, clearly identify—
  - a. the inconsistency; and
  - b. the reasons for the inconsistency; and
  - c. any intention of the local authority to seek an amendment to the agreement under subsection (4).
- (7) As soon as practicable after making any decision to which subsection (6) applies, the local authority must give to each of the other local authorities within the region notice of the decision and of the matters specified in that subsection.

## Resource Management Act

### Schedule 1, Clause 3A- Consultation in relation to policy statements

- (1) A triennial agreement entered into under section 15(1) of the Local Government Act 2002 must include an agreement on the consultation process to be used by the affected local authorities in the course of:
  - (a) Preparing a proposed policy statement or a variation to a proposed policy statement, and
  - (b) Preparing a change to a policy statement, and
  - (c) Reviewing a policy statement.



**Meeting:** Council

**Meeting Date:** 22 February 2022

**Subject:** Adoption of the Draft Eastern Bay of Plenty Local Alcohol Policy for Public Consultation

**File:** 110876

## **1 Purpose**

The purpose of this paper is for the Council to adopt the Draft Eastern Bay of Plenty Local Alcohol Policy and supporting information for public consultation.

## **2 Background**

The Council has a role in alcohol licensing through the Local Alcohol Policy, the administration of the District Licensing Committee (DLC), and through its regulatory and enforcement roles, including the Council's Liquor Licensing Inspector and relevant bylaws.

Under Sections 75 and 76 of the Sale and Supply of Alcohol Act 2012 (the Act), a territorial authority (or authorities) may have a policy relating to the sale, supply and consumption of alcohol in its district.

The Act sets out the requirements and process for Local Alcohol Policies (LAPs). LAPs can include policies on any or all of the following matters relating to licensing (and no others):

- location of licensed premises by reference to broad areas;
- location of licensed premises by reference to proximity to premises of a particular kind or kinds;
- location of licensed premises by reference to proximity to facilities of a particular kind or kinds;
- whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district;
- maximum trading hours;
- the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions
- one-way door restrictions.

The Council currently has a joint LAP with Ōpōtiki District Council and Whakatane District Council, named the Eastern Bay of Plenty Local Alcohol Policy.

The policy came into effect in 2016.

Under section 97 of the Act, the policy is required to be reviewed no later than six years after it comes into force. A review of the policy was initiated in 2021.

### **3 Situation**

#### **3.1 Work to date**

A joint Council Working Group was established in October 2021.

This group comprises of members from each of the three councils and has been meeting regularly to discuss engagement, key risks and issues, monitor progress and shape the draft LAP.

Since the establishment of the Working Group, engagement has been sought with stakeholders, and a draft Research Report produced which has been used to inform the review of the LAP.

Dr Nicki Jackson – Executive Director at Alcohol Healthwatch presented at the EBOP Joint Committee, a joint Council workshop was held to discuss potential improvements that could be made to the current LAP, and meetings with community boards members to discuss issues and improvements.

Through this process, it has been established that the three councils would continue to have a joint LAP.

##### **3.1.1 Research Report**

A research paper (attached as Appendix 2) was developed to inform the 2022/23 review of the Local Alcohol Policy.

The research paper considers the current number of licences, the demography of residents, overall health indicators, and alcohol related issues in the three districts. The report also includes information gathered through the stakeholder engagement undertaken with Police, the Medical Officer of Health and Licensing Inspectors.

Pre-engagement submissions have been included as attachments to the research report.

A summary of key points in the report are provided below:

- High deprivation across all three districts puts our region at a higher risk of harm relating to alcohol.
- Data provided by the Bay of Plenty District Health Board has shown that a large proportion of hospital admissions in the region are wholly contributed to by alcohol, with numbers higher than the national average for the Ōpōtiki and Kawerau districts.
- Feedback provided from stakeholders indicates that there is great potential and support to strengthen the provisions of the current LAP. This includes placing tighter restrictions on-licence hours and venue density.
- In 2021, approximately 12% of all recorded offences recorded alcohol as a contributing factor. Violence offences made up the highest proportion of alcohol-related offending in the Eastern Bay of Plenty (EBOP) with 25% and 24% respectively in 2020 and 2021. Drug and anti-social offences made up

the next highest proportion of alcohol-related offending with 20% and 21% respectively in 2020 and 2021.

- In 2020 and 2021, 25% of family violence incidents and offences flagged alcohol as a contributing factor.
- Over the last five years, alcohol was a contributing factor in serious injury and fatal crashes in the EBOP, increasing from 24% in 2017 to 50% in 2021. Alcohol as a contributing factor in minor and non-injury crashes has increased from 9% in 2017 to 23% in 2021.
- Residents in the EBOP largely support the reduction of the number of venues that sell alcohol and note that this would improve the safety of their communities.

### 3.1.2 Summary of proposed changes within Draft Policy

The draft policy includes a range of amendments proposed to the current LAP to enable consistency of provisions across the three districts, strengthen the policy vision and objectives, and streamline the policy. For comparison, the existing LAP has been included as Appendix 4.

Through developing the draft policy, feedback provided from stakeholders has been considered and balanced. The draft policy, much like the existing policy, focuses on host responsibility and enabling the DLC to have discretion when making decisions on applications. There has been strong feedback from organisations focused on wellbeing that trading hours should be reduced to minimise accessibility and exposure and that the definition of sensitive sites should be expanded upon.

Key changes include:

- The policy has been condensed and wording has been simplified where possible to provide clarity to applicants and the District Licensing Committee, and to remove reference to requirements which are already set in the Act.
- Objectives have been included to clearly provide the Councils' position and aims for each of the districts.
- The draft policy has been developed to align provisions across all three districts, with no differences between each district included.
- Trading hours are proposed to be aligned across all three districts as follows:  
Off-licences: 9am – 10pm (Supermarkets 8am-10pm)  
On-licences: 9am – 12pm  
Club licences: 9am - 12pm  
Special licences: case by case
- The definition of sensitive sites has been extended to include primary and secondary schools, childcare facilities, children's playgrounds, places of worship, marae, and medical centres.
- Provision around new licences and proximity to sensitive sites has been reworded to better reflect and align with District Plans and provide the District Licensing Committee discretion on applications near sensitive sites.
- Example discretionary conditions applicable to each licence type have been included to provide more visibility as to what can be imposed.

## 4 Options

### Option 1 – Consult on retaining current LAP

This option would involve the Council resolving to consulting on retaining the current policy.

This option is **not recommended**. Through the findings within the Research Report, and community pre-engagement, there is support to strengthen the current policy.

### Option 2 – Draft LAP is adopted for consultation (preferred option)

This option involves the Council adopting the draft LAP, which the public will then have the opportunity to provide a submission on.

This option is **recommended**. As noted in section 4.2, the proposed amendments to the current LAP will enable consistency of provisions across the three districts, strengthen the policy vision and objectives and streamline the policy.

### Option 3 – consult on revoking LAP altogether

As LAPs are not mandatory, the Council may resolve to consult on revoking the current policy altogether, if it considers that a LAP is not required.

This option is **not recommended**. Revoking the LAP would mean that the licensing provisions within the Act would become default.

## 5 Significance and Engagement

### 5.1 Assessment of Significance

The decisions and matters of this report are assessed to be of moderate significance in accordance with the Whakatāne District Council's Significance and Engagement Policy, due to the likely community and stakeholder interest regarding the perceived trade-off between economic and entertainment benefits and the current and future wellbeing of our communities.

The following criteria are of particular relevance in determining the level of significance:

- **Level of impact on current and future wellbeing:**  
The perceived trade-offs between economic wellbeing and mental and physical health and wellbeing, for current and future generations across the Eastern Bay of Plenty.
- **Impact on whānau/hapū/iwi:**  
Research suggests that Māori experience disproportionately higher rates of alcohol-related harm than other ethnic groups.
- **Level of community interest:**  
There is anticipated to be community interest in this review due to the economic value driven by the consumption of alcohol, coupled with other

parts of the community that have strong views on the societal harm caused by the sale and supply of alcohol.

## 5.2 Engagement and community views

Section 79 of the Act requires councils to consult on the draft policy in accordance with the Special Consultative Procedures outlined in the Local Government Act 2002. Section 78 of the Act states that there must be consultation with local communities, and key regulatory bodies such as the Police, Licensing Inspectors and Medical Officers of Health.

A communication and engagement plan has been developed where each council retains responsibility for engaging with the iwi and hapū groups within their rohe.

### ***Engagement to date***

Iwi within the Eastern BOP have been advised that this review is underway and have been asked whether, and how, they would like to be part of this review. Hauora organisations within the EBOP have also been contacted in order to support informed dialogue about this key social issue.

Within the Whakatāne District, staff have had a hui with Tūhoe Hauora and Ngāti Awa Social and Health Services – CAYAD Co-ordinator (Community Action on Youth and Drugs).

Feedback received from both highlighted the concern around the number of off and on licences throughout the district and the concern surrounding off licences near schools and health services such as Hauora and drug and alcohol addiction services.

It was requested by both organisations that bottle stores should open after school starts and close between 3-4pm to reduce accessibility and exposure. Tūhoe Hauora has successfully made an agreement with the bottle store across the road from their premise in Tāneatua to close between 3-4pm as this is a main route for children leaving school.

Both organisations also discussed the need to expand on the sensitive sites listed within the current policy, and wanted to see medical centres, schools, places of worship, marae, food banks, parks, swimming pools, and cemeteries included. A written submission from Ngāti Awa Social and Health Services from their CAYAD co-ordinator has been provided as an appendix to the research report.

From the Ōpōtiki District, hui have been held with Healthy Families East Cape, Whakaatu Whanaunga Trust, and Te Ao Hou Trust.

From the Kawerau District, Tuwharetoa Hauora became engaged later in the process and although providing some initial information, they had a preference for a hui early this year to enable more time to provide feedback to the draft Local Alcohol Policy. A hui with Tuwharetoa is being arranged at the time this report was written.

Other key stakeholders have been advised that this review is underway, and their feedback sought. These key stakeholders include the Police, Toi Te Ora, Licensing

Inspectors, EBOP Chamber of Commerce, EPIC, CAYAD, and previous appellants to the LAP.

Responses have been received from Police, Toi Te Ora, and Licensing Inspectors from Whakatāne, Kawerau and Ōpōtiki who have all supported the reduction of trading hours, number of licences and proximity to sensitive sites. Submissions provided have been included as appendices to the research report.

Of the previous appellants of the last LAP review, a response has been received from Ignition Group on behalf of Super Liquor Holdings who stated that the existing policy is working well, and no changes are suggested. Specifically, no change to hours of trading.

Chamber of Commerce Eastern Bay sought feedback from their members and other bars, restaurants and businesses affected. Feedback received was that there needed to be more transparency within the licencing process and that there were discrepancies between some venues within walking distance that had different trading hours within their licence.

Key stakeholders and the general public will also have the opportunity to have input into the draft LAP through the formal submission process. A Statement of Proposal has been developed to support consultation on the LAP and is attached to this report as Appendix 3 for approval.

If the Council agrees to adopt the draft Policy and Statement of Proposal for public consultation, the consultation period must be at least four weeks. Submitters will be offered an opportunity to be heard, followed by Council deliberations.

## **6 Considerations:**

### Financial/budget considerations

There are no budget considerations associated with the recommendations in this report.

### Strategic alignment

No inconsistencies with any of the Council's policies or plans have been identified in relation to this report.

### Climate change assessment

There are no climate change implications arising from this policy review.

### Risks

Potential risks of this policy review include:

- Consultation being considered to be insufficient or too narrow;
- Possible legal challenge through the appeals process from licensees and/or liquor companies;
- Negative publicity / media coverage towards Council;

- Balancing the aspirations of organisations that benefit from sale and supply of alcohol with the risk to those affected by alcohol-related harm.

These risks are being managed by working across the three councils involved to ensure external stakeholders are identified and connected with, and by developing an engagement plan to support proactive media collateral and consistent key messages.

## **7 Next Steps**

The draft LAP, as attached to this report, is being presented to the respective councils/committees in February and March for approval for consultation. Consultation on the policy is proposed to take place from Monday, 27<sup>th</sup> March 2023 to Friday, 28<sup>th</sup> April 2023.

Following the close of the submissions period, hearings and deliberations will take place shortly after. It is proposed that a hearings and deliberations panel is comprised of three councillors from Whakatāne District Council, and two councillors each from Kawerau and Ōpōtiki District Councils. This report recommends that the Committee nominates the three Councillors to sit on the hearings and deliberations panel.

A provisional LAP will be prepared to reflect the decisions made at the hearings and deliberations meeting/s, and recommendations made to the respective committees/councils to adopt the provisional LAP.

The provisional LAP will then be notified. Anyone who provided a submission on the draft policy during the formal consultation period can appeal the provisional policy. The provisional LAP becomes final 30 days after it is publicly notified, or appeals are resolved. The operative LAP (i.e. the current policy) continues to be in force until such a time as the new LAP is adopted.

### Attached to this report:

- Appendix 1: Draft Eastern Bay of Plenty Local Alcohol Policy;
- Appendix 2: Research Report;
- Appendix 3: Statement of Proposal;
- Appendix 4: Existing Eastern Bay of Plenty Local Alcohol Policy.

## **RECOMMENDATIONS**

1. *That the Adoption of the Draft Eastern Bay of Plenty Local Alcohol Policy for Public Consultation report be received;*

2. *That the Council acknowledges that the Draft Eastern Bay of Plenty Local Alcohol Policy will continue to be a joint policy between Whakatāne District Council, Kawerau District Council and Ōpōtiki District Council;*
3. *That the Council adopts the Draft Eastern Bay of Plenty Local Alcohol Policy, Statement of Proposal, and Research Report, as per appendices 1-3 for consultation between 27<sup>th</sup> March 2023 – 28<sup>th</sup> April 2023; and*
4. *That Council nominate two Councillors to be representatives for the joint hearings and deliberations meeting following consultation taking place.*



Michaela Glaspey

**Group Manager Regulatory and Planning**

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# Eastern Bay of Plenty Local Alcohol Policy



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## 1. Introduction

This is the joint Local Alcohol Policy of the Kawerau, Ōpōtiki and Whakatāne District Councils. The Sale and Supply of Alcohol Act 2012 (the Act) allows each territorial authority to develop a local alcohol policy for the sale, supply and consumption of alcohol in its district. The Eastern Bay of Plenty has had a joint policy in place since 2016, with a review undertaken in 2022/23.

The Eastern Bay of Plenty Local Alcohol Policy (LAP) aims to guide decision making by the District Licensing Committee (DLC) to meet the object of the Act, which is that *“the sale, supply and consumption of alcohol should be undertaken safely and responsibly; and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised”*.

This LAP has been developed in collaboration with New Zealand Police, Medical Officer of Health, Licence Inspectors, and other community stakeholders, who have confirmed the need to retain a local alcohol policy for the three districts, and to strengthen its provisions.

A research paper was developed to inform the 2022/23 review of the LAP. The research paper focused on:

- the objectives and policies of the Councils' District Plans;
- the number of licences of each kind, and the location and opening hours of licenced premises in the districts;
- any areas of the districts in which bylaws prohibiting alcohol in public places are in force;
- the demography of each district's residents;
- the demography of the people who visit the districts as tourists or holidaymakers;
- the overall health indicators of each district's residents, and
- the nature and severity of the alcohol-related problems arising in the districts.

## **2. Policy Vision and Purpose**

### **2.1 Vision**

To support the object of the Sale and Supply of Alcohol Act 2012 and contribute to the safety and health of the communities in the Eastern Bay of Plenty.

### **2.2 Purpose**

- To minimise alcohol-related harm in the Eastern Bay of Plenty;
- To regulate the sale, supply and consumption of alcohol so that it is undertaken safely and responsibly;
- To demonstrate leadership in supporting a safer drinking culture;
- To provide direction to the District Licensing Committee so that licencing decisions reflect local community views and aspirations.

## **3. Policy Principles**

When using this policy, the following principles must be taken into account:

1. All District Licensing Committee considerations should have regard to the needs and views of local communities;
2. All District Licensing Committee processes regulating the sale and supply of alcohol should be transparent, consistent and objective;
3. All District Licensing Committee actions should promote the object and be consistent with the provisions of the Sale and Supply of Alcohol Act 2012;
4. All District Licensing Committee decisions will be based on evidence and will be considered objectively.

## **4. Application and Scope**

This policy applies to any licensing application made to a District Licensing Committee in the Eastern Bay of Plenty Region.

## **5. Transitional provisions**

The provisions of this policy relating to maximum trading hours do not come into effect until three months after the policy comes into effect.

## 6. Exceptions

Any application for a new licence or licence renewal for any premises which had a current licence at the date this policy came into effect is exempt from the provisions of this policy relating to the location of licenced premises (section 9.1).

The exemption remains in force unless there is a 'change of use' for those premises which does not include an alcohol licence of the same type, any future application for a licence will be considered against this policy.

## 7. Relationship to the Act

This policy does not include all provisions that may apply to licence applications and must therefore be read in conjunction with the Act, which contains a number of additional provisions, including in relation to issue of licences, renewal of licences, compulsory licence conditions, manager's certificates, application processes, restrictions for supermarkets and dairies, and further detail on host responsibilities.

## 8. Definitions

**Alcohol** means a substance that is or contains a fermented, distilled, or spirituous liquor, which; in whatever form is found on analysis to contain 1.15% or more ethanol by weight, in a form that can be consumed by people.

**Alcohol-related harm** means:

- (a) The harm caused by the excessive or inappropriate consumption of alcohol; and
- (b) Includes
  - i. Any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused or contributed to by the excessive or inappropriate consumption of alcohol; and
  - ii. Any harm to society generally or the community, directly or indirectly caused or contributed to by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in subparagraph (i).

**Club licence** is a licence that allows for the sale and supply of alcohol to authorised customers for consumption on the club premises to which the licence applies.

**Eastern Bay of Plenty Region** means the area comprised of the Kawerau District, the Ōpōtiki District, and the Whakatāne District.

**Minibar** means a small refrigerator in a hotel room that is stocked with alcoholic and non-alcohol beverages and snacks for guests.

**Off-licence** is a licence that allows for the sale and supply of alcohol on a premise for consumption off the premise and the consumption of samples on the premise during opening hours.

**One-way door policy** means patrons can leave a licensed premises but not enter or re-enter after a specific time.

**On-licence** is a licence that allows for the sale and supply of alcohol on a premise for consumption on the premise.

**Sensitive premises/facilities** means locations where the effects associated with the sale and supply of alcohol could be incongruous, insensitive or socially or culturally incompatible for people congregating for social, cultural, educational or recreational purposes. This includes people who may be more influenced, impressionable or vulnerable to alcohol-related harm, such as those recovering from addiction and children; or those who attend church, Marae and similar places where it is culturally and/or socially inappropriate to have a licensed premise nearby.

For the purposes of this policy 'sensitive premises/facilities' include but are not limited to:

- Primary and secondary schools
- Childcare facilities - includes any crèche, day or after-school care centre, pre-school, kindergarten, kohanga reo or play centre
- Children's playgrounds
- Medical centres - premises used to provide essential medical, physical and mental health services, as well as any addiction treatment facilities
- Places of worship - buildings and land used mainly for worship or religious purposes
- Marae

**Special licence** is a licence that authorises the sale, supply and consumption of alcohol at a specific place for a particular occasion, event, or series of events.

**The Act** means the Sale and Supply of Alcohol Act 2012.

## 9. Objectives and Policies

### 9.1 Objective 1: Licensed premises are located in appropriate areas that minimise alcohol-related harm

Policy statement: Any application for a new on or off licence must be for a premise located in a zone designed for commercial or business activities under the relevant District Plan. If required for that zone under the relevant District Plan, the applicant must obtain the necessary resource consent prior to seeking a licence. This policy anticipates that the sale and supply of alcohol will primarily be located in zones where bars, taverns, restaurants, cafes, and supermarkets can locate. Applications for premises located in zones not designed for commercial or business activities will not be considered unless a resource consent has been granted.

For all on, off, or club applications, consideration will be given to the licence's proximity to sensitive premises/facilities, and the effects that the sale and supply of alcohol could have on these premises/facilities. The Committee will exercise its judgement in relation to the significance of these effects and may decline to issue a licence where effects cannot be avoided or mitigated, or impose conditions that mitigate the effects that proximity to sensitive premises/facilities could create.

### 9.2 Objective 2: Maximum trading hours support appropriate accessibility to alcohol

Policy statement:

*Table 1: Maximum trading hours by licence type and District*

	<b>Whakatāne</b>	<b>Ōpōtiki</b>	<b>Kawerau</b>
<b>On-licence</b>	9am-12am	9am-12am	9am-12am
<b>Off-licence</b>	9am-10pm (Supermarkets 8am – 10pm)	9am-10pm (Supermarkets 8am – 10pm)	9am-10pm (Supermarkets 8am – 10pm)
<b>Club licence</b>	9am-12am	9am-12am	9am-12am
<b>Special licence</b>	Case by case	Case by case	Case by case

Notes:

- The hours set out in Table 1 are the maximum hours and the Committee may issue any licence subject to more restrictive trading hours.
- Minibars are exempt from the above maximum trading hours and can operate 24 hours a day, 7 days a week.

### **9.3 Objective 3: The District Licencing Committee will consider reasonable discretionary conditions to minimise alcohol-related harm**

Policy statement: The District Licencing Committee may issue any type of licence subject to discretionary conditions appropriate to the circumstances of that licence. These may include, but are not limited to, conditions concerning:

#### **On-licence:**

- Patron number to security ratio;
- Patron number to bar staff ratio;
- Provision of additional security (staff);
- Installation and operation of CCTV cameras;
- Provision of effective exterior lighting;
- Size and types of drinks available, and time of 'last orders';
- Management of patrons inside and queuing to enter the premise;
- Use of outdoor areas;
- Number of drinks per customer;
- Permitted drinking vessels;
- Provision of transport for patrons;
- Maintenance of an alcohol-related incidents book;
- Implementation of a one-way door policy.

#### **Off-licence:**

- Required signage detailing restrictions on the sale of alcohol to minors (under 18) and intoxicated persons;
- Maintenance of an alcohol-related incidents book;
- Installation and operation of CCTV cameras;
- Provision of effective exterior lighting;
- When single sales of beer, ready to drink spirits (RTDs), or shots may occur;
- Display of advertisements, product or price specials.

#### **Club licence:**

- Patron number to security ratio;
- Patron number to bar staff ratio;
- Provision of additional security (staff);
- Installation and operation of CCTV cameras;
- Provision of effective exterior lighting;
- Size and types of drinks available and time of 'last orders';
- Management of patrons inside and queuing to enter the premises;
- Use of outdoor areas;



- Number of drinks per customer;
- Permitted drinking vessels;
- Provision of transport for patrons.

**Special licence:**

- Number of 'responsible persons' or certified Duty Managers to be present;
- Locations at which Managers must be present;
- Provision of free water;
- Number of drinks per customer/attendee;
- Drink containers to be opened at point of sale;
- Size and types of drinks available;
- Guard to patron ratio;
- Identification of event staff;
- Permitted drinking vessels;
- Promotion of alcohol;
- Implementation of a one-way door policy;
- Lighting requirements;
- Identifying a specific 'licenced area' within an overall 'event area'.

**9.4 Objective 4: Good host responsibility is encouraged in line with the Act**

Policy statement: Every licenced premises must develop a host responsibility policy containing provisions to encourage and actively inform staff and patrons about the following:

- The provision of non-alcoholic and low-alcohol drinks;
- Making drinking water freely available to customers;
- The availability of food on the premises at all times the licence is in operation;
- Steps taken to ensure alcohol is not supplied to underage, intoxicated, or otherwise prohibited persons;
- Undesignated, restricted and supervised areas;
- Help with and information about alternative transport;
- How host responsibility is promoted on the premises (e.g. by signage and staff service practices)
- Measures to protect the amenity and good order of the locality, and
- Any other matter aimed at encouraging responsible alcohol service and consumption.

## **10. Policy Review**

The three territorial authorities will monitor the policy to ensure it is operating to the full effect.

If the monitoring of this policy does not indicate the need for any changes, a review will be initiated in 2029.

## **11. References and Relevant Legislation**

Sale and Supply of Alcohol Act 2012;

District Plans in the Eastern Bay of Plenty region: Kawerau, Ōpōtiki and Whakatāne.

# DRAFT Local Alcohol Policy Research Report

*Information to support the development of the Eastern Bay of Plenty Local Alcohol Policy*  
2022/23



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## EXECUTIVE SUMMARY

This paper sets out background information and data to support and inform a review of the Eastern Bay of Plenty Local Alcohol Policy (LAP).

### Key findings:

- As of July 2022, there are a total of 136 licences throughout the Eastern Bay of Plenty (EBOP) that sell and supply alcohol. 15 in Kawerau (29.2 per 10,000 residents), 22 in Ōpōtiki (32.3 per 10,000 residents), and 99 in Whakatāne (37.9 per 10,000 residents). There are 31.1 licences per 10,000 residents in New Zealand.
- The number of special licences has continued to increase since 2015, with around 150 being issued each year for a variety of events in the region.
- Many venues such as bars specifically in Whakatāne are closing earlier than the current LAP specifies (around 12am). A ruling from ARLA which imposed a 12am closing time on a central bar had a roll-on effect of increased compliance across all bars in the CBD. As a result, other surrounding bars also decided to close at 12.
- The Alcohol Harm Reduction Officer from NZ Police has stated a reduction in trading hours at certain premises has resulted in an immediate impact and reduction on reported incidents and offences.
- The Whakatāne and Kawerau Licensing Inspector stated that the current LAP has no restrictions on proliferation of licenced premises and so in Kopeopeo there are three off-licence premises within the space of 500 metres. Kawerau township has three off-licenced premises within 300 metres, with a recent application for a fourth. Both communities are recorded as being in areas of deprivation. In the Whakatāne CBD, despite an alcohol bylaw that prevents consuming alcohol in public spaces, bar patrons were 'pre-loading' in their cars on The Strand and in the rear carparks before entering the bars. This resulted in disorder, violence, and excessive noise in the CBD.

- 1 in 5 New Zealand adults (19.9%) had a hazardous drinking<sup>1</sup> pattern in 2020/21.
- Men are two times more likely to be hazardous drinkers than women.
- Those aged 18-24 years have a higher rate of hazardous drinking.
- Māori are 1.7 times as likely to be hazardous drinkers, 1.3 times as likely for Pacific people.
- In 2021, approximately 12% of all recorded offences recorded alcohol as a contributing factor. Violence offences made up the highest proportion of alcohol-related offending in the EBOP with 25% and 24% respectively in 2020 and 2021. Drug and anti-social offences made up the next highest proportion of alcohol-related offending with 20% and 21% respectively in 2020 and 2021.
- In 2020 and 2021, 25% of family violence incidents and offences flagged alcohol as a contributing factor.
- In the EBOP over the last five years, alcohol was a contributing factor in serious injury and fatal crashes, increasing from 24% in 2017 to 50% in 2021. Alcohol as a contributing factor in minor and non-injury crashes has increased from 9% in 2017 to 23% in 2021.
- A survey in 2020 undertaken by Toi Te Ora showed 63.2% of Bay of Plenty residents would support reducing the number of places that can sell alcohol and 62.7% thought that more restrictions on alcohol availability would improve safety in towns and cities at night.

## 1.0 INTRODUCTION

### 1.1 Purpose

The purpose of this report is to provide an assessment of available information to support the review of the Eastern Bay of Plenty Local Alcohol Policy (LAP). Kawerau, Ōpōtiki and Whakatāne District Councils adopted the current Eastern Bay of Plenty Alcohol Policy in 2016. The Policy is required to be reviewed no later than 6 years after it came into force.

### 1.2 Scope

The scope and structure of this report aligns with the requirements for developing a Local Alcohol Policy as set out in section 78 of the Sale and Supply of Alcohol Act<sup>2</sup> (the Act). This section states that when a territorial authority is developing a draft policy, it must have regard to:

- the objectives and policies of the Council's District Plan;

<sup>1</sup> Hazardous drinkers are those who obtain an Alcohol Use Disorders Identification Test score of 8 or more, representing a pattern of drinking that carries high risk of future damage to physical or mental health.

<sup>2</sup> Sale and Supply of Alcohol Act, (2012). Section 78.

- the number of licences of each kind, the location, and the opening hours of each premises;
- any areas in which bylaws prohibiting alcohol in public places are in force;
- the demography of the district's residents;
- the demography of the people who visit the district as tourists or holidaymakers;
- the overall health indicators of the district's residents; and
- the nature and severity of the alcohol-related problems arising in the district.

While the alcohol industry provides economic benefit in the district, related information does not fall within the scope as set out above and is therefore not included in this report. The report largely focusses on the harm caused by alcohol.

### 1.3 Methodology

Data collection for this research report involved two key components. First, staff collated and analysed internal Council data for the three local authorities. Relevant alcohol literature was also reviewed, with a list of references provided at the end of this report. Second, staff engaged with a range of organisations and local stakeholders to make them aware of the policy review and gather data to inform the process. The New Zealand Police and health agencies are critical in this regard.

#### 1.3.1 Data limitations

Due to the effects of the Covid-19 pandemic, including the temporary closure of venues and isolation, it is difficult to compare trends between data from 2020 onwards with previous years.

There are also limitations with the data provided by the NZ Police (Appendix 4). The statistics on alcohol-related offences are based on a subjective assessment made by the attending officer as to whether alcohol was a contributing factor. Comparisons between the Eastern Bay of Plenty and other parts of the country are influenced by differences in police resource capability and focus throughout the country.

Much of the data relating to health is collected by the Bay of Plenty District Health Board at a regional level, which covers a wider geographical area than Whakatāne, Ōpōtiki, and Kawerau. As such, drawing conclusions at a District level is challenging. Conclusions have been drawn from the wider Bay of Plenty District for health indicators.

Around the time of the alcohol reforms that resulted in the subsequent introduction of the Sale and Supply of Alcohol Act in 2012, a substantial amount of national research was undertaken and published. This research has been drawn on throughout this report, however where available, more recent research has been cited to provide an accurate representation of the problem today.

## 2.0 BACKGROUND



Alcohol is part of many people's lives. About four of five New Zealanders consumed alcohol in the past 12 months.<sup>3</sup> While largely enjoyed in moderation, there can be significant negative individual and community impacts resulting from the excessive use and availability of alcohol.

## 2.1 Legislative Context

The Sale and Supply of Alcohol Act 2012 brought in several new provisions, including the ability for communities to have input into how alcohol is managed in their area through a Local Alcohol Policy.

It should be noted that in June 2022, a Private Members' Bill was drawn from the ballot. This Bill seeks to amend the Sale and Supply of Alcohol Act 2012 and remove the appeals process in Local Alcohol Policy adoption; end alcohol sponsorship of sport; and strengthen the criteria for District Licencing Committees when considering applications.

## 2.2 Te Tiriti o Waitangi

There are no specific provisions in the Act to consider Te Tiriti in relation to the sale and supply of alcohol, nor the development of Local Alcohol Policies. The Waitangi Tribunal is currently considering the Wai 2624 (Alcohol Healthcare) Claim<sup>4</sup>, which is focused on alcohol and the numerous ways it harms Māori and their communities. The claim highlights the failures of the Sale and Supply of Alcohol Act 2012 including the omission of any reference to Te Tiriti and that the Act fails to ensure that Māori have a place as of right on District Licencing Committees when deciding whether or not to grant a liquor licence. A specific part of the claim is in relation to Foetal Alcohol Spectrum Disorder (FASD), and was heard in March 2022. It is estimated that FASD may be the single largest disability affecting Māori and that up to 30% of prisoners in Aotearoa may be suffering FASD, yet the condition is not widely recognised by the Government or the public.

## 2.3 Legislative framework

### 2.3.1 Sale and Supply of Alcohol Act 2012

The object of the Act (section 4) is twofold: *“that the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and the harm caused by excessive or inappropriate consumption of alcohol should be minimised.”*

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<sup>3</sup> Alcohol Healthwatch data for 2020/21; Nicki Jackson presentation to EBOP Joint Committee (1 July 2022)

<sup>4</sup> Waitangi Tribunal, (2021).

Section 75 of the Act states that territorial authorities may have a Local Alcohol Policy (LAP) that relates to the sale, supply, and consumption of alcohol in their district (or districts, through a joint policy). LAPs aim to minimise alcohol-related harm and to align decision making on licencing matters with community views and local issues. There is no requirement for a council to have a policy. If there is no LAP in force, then the default provisions of the Act apply in relation to alcohol licensing in the local area. The added value of a LAP is that it enables community involvement in its development and a more localised, evidence-based approach that can target certain areas of harm reduction e.g., a certain geographical area.

Section 77(1) of the Sale and Supply of Alcohol Act states that a local alcohol policy *may* include policies on any of the following matters relating to licensing (and no others):

- location of licenced premises by reference to broad areas (e.g., town centres);
- location of licenced premises by reference to proximity to premises of a particular kind or kinds (e.g., another off or on-licence);
- location of licenced premises by reference to proximity to facilities of a particular kind or kinds (e.g., schools);
- whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district;
- maximum trading hours;
- the issue of licences, subject to discretionary conditions; and
- one-way door restrictions.

If there is a LAP in force, any decisions including new licences and renewals must “have regard to” the LAP<sup>5</sup>.

There are 4 kinds of licence:

On-licences	for sale and consumption of alcohol on the premises, e.g. hotels, taverns, night clubs, restaurants
Off-licence	for sale and consumption off the premises, e.g. bottle shops, supermarkets, grocery stores
Club licence	for sale and consumption of alcohol on club premises to members of the club, their guests, and members of affiliated clubs
Special licence	for sale at specific occasions or events

### 2.3.2 Impact on existing venues

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<sup>5</sup> Section 105 of the Sale and Supply of Alcohol Act 2012

Section 133(1) of the Sale and Supply of Alcohol Act<sup>6</sup> states:

“In considering whether to renew a licence, the licensing authority or licensing committee concerned must not take into account any inconsistency between a relevant local alcohol policy and—

- (a) the renewal of the licence; or
- (b) the consequences of its renewal.”

Which means that when an existing premise with a licence requests a renewal, the DLC cannot take into account any new provisions in the Local Alcohol Policy. When there is a change of ownership however, a premise must apply for a new licence and then the new provisions may be taken into account as this is not considered a renewal.

## 2.4 Current Local Alcohol Policy

The current Local Alcohol Policy came into force on 22 June 2016 and is a joint policy with Kawerau, Ōpōtiki and Whakatāne Districts.

The current LAP aims to reduce alcohol related harm while balancing the economic benefits the alcohol industry provides the Eastern Bay of Plenty. It does this by adopting a relatively permissive approach, with no prescriptive provisions about the number, type, and density of licenced premises; instead relying on host responsibility requirements such as to serve alcohol to patrons responsibly, provide non-alcohol beverages and appropriate food, arrange safe transport options, and identify and manage intoxicated patrons.

### 2.4.1 Objectives

The objectives of the current EBOP LAP are to foster positive, responsible drinking behaviour and minimise alcohol-related harm in the Eastern Bay of Plenty region by:

1. Providing clarity for applicants and a framework for the District Licensing Committee when deciding on licensing applications in relation to:
  - The location of licenced premises
  - Whether further licences, or licences of a particular kind(s) should be issued
  - Maximum trading hours
  - One way door restrictions
  - Particular conditions

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<sup>6</sup> Section 133(1) of the Sale and Supply of Alcohol Act 2021

- Discretionary conditions
2. Enabling community views to be considered in decisions about the number and type of licenced premises and licence conditions imposed.
  3. Informing applicants, regulatory bodies, the licensing authority, industry stakeholders and the wider community about the Councils' stance toward licensing matters.
  4. Providing an efficient regulatory framework that is integrated with the District Plan and consents process.

## 2.4.2 Trading Hours

The default national maximum trading hours specified in the Act are

- On-licence & club licence: 8am-4am
- Off-licence: 7am-11pm

A LAP can specify maximum trading hours that apply in each District, which reduce the statutory default trading hours. The EBOP LAP trading hours are shown in Table 1 below. The Committee may issue any licence subject to more restrictive trading hours and may include any reasonable conditions not inconsistent with the Act<sup>7</sup>.

*Table 1: Maximum trading hours by licence type and district.*

	Kawerau	Ōpōtiki	Whakatāne
<b>On-licence</b>	9am-1am	9am-1am	8am-2am 8am-2.30am (Winery)
<b>Off-licence</b>	8am-10pm	7am-10pm	7am-11pm
<b>Club licence</b>	9am-1am	10am-1am	7am-2am 7am-12pm (Sports club)
<b>Special licence</b>	Case by case	Case by case	Case by case

The Committee may also grant on, off or a club licence for any premise located in any zone where the sale and supply of alcohol is a permitted activity under the relevant District Plan, and in any sensitive location where the applicant can demonstrate there will be no significant adverse effects.

## 2.4.2 District Licensing Committee

<sup>7</sup> Section 117 of the Sale and Supply of Alcohol Act 2012

Council functions include a role in alcohol licensing policy through the LAP and the administration of the District Licensing Committee, as well as an enforcement and regulatory role through Alcohol Licensing Inspectors.

The District Licensing Committee (DLC) deals with alcohol licensing matters for a district (or districts) and is administered by the territorial authority. The DLC determines applications for licences, manages certificates and renewals, determines temporary applications, varies, suspends, or cancels licences, refers applications to the Alcohol Regulatory and Licensing Authority (ARLA) and conducts inquiries. As Kawerau, Ōpōtiki and the Whakatāne District Councils have a joint Local Alcohol Policy, the DLC is also combined.

## **2.5 Licensing inspectors**

Licensing Inspectors are appointed by councils and have a responsibility to act independently from the council when exercising and performing their role. They monitor licensees' compliance with the Act, take enforcement action as required, and are required to collaborate with the Police and Medical Officer of Health to establish and maintain arrangements with each other to ensure the ongoing monitoring of licences and the enforcement of the Act. Licensing Inspectors must also inquire into and report on all applications for alcohol licences (on, off and special licences) and all applications for general manager's certificates.

## **2.5 Bylaws prohibiting alcohol in public places**

Territorial authorities are able to make Alcohol Control Bylaws under section 147 of the Local Government Act 2002 following a full community consultation process. The purpose of an Alcohol Control Bylaw is to address concern for the harmful and negative effects associated with the consumption of alcohol in public areas, such as disorderly behaviour and criminal offending. It provides the Police with an additional tool to manage these negative consequences. Alcohol Control Bylaws and maps can be found on each District's website. A summary of each is provided below.

### **Whakatāne District**

The Whakatāne District Council Alcohol Control Bylaw came into force on 1 July 2018. Within the Whakatāne District, alcohol controls have been imposed on:

1. All beaches, reserves, parks, boat ramps and jetties within the district; and
2. The roads specifically identified in the Whakatāne Central Business District, Hillcrest Road, the Heads and River Edge Park, the Kopeopeo Central Business District, Ōtarawairere, Kōhī Point Scenic Reserve, Ōhope, Murupara, Te Teko and Edgecumbe.

The Bylaw applies during the following specified times:

- 12pm Thursdays to 3am Mondays; and
- 12pm 24<sup>th</sup> December to 12pm 26<sup>th</sup> December; and
- 12pm 31<sup>st</sup> December to 3am 1<sup>st</sup> January.

### Ōpōtiki District

The Ōpōtiki District Council adopted its current Alcohol Control Bylaw in 2019. Within the Ōpōtiki District, alcohol controls have been imposed on:

1. Ōpōtiki Town Centre, Tirohanga Beach, Maraetai Bay Reserve, and Te Kaha Hotel Road

The alcohol ban is in place 24 hours a day, seven days a week.

### Kawerau District

The Kawerau District Council Alcohol Control Bylaw came into force on 1 June 2009. Within the Kawerau District, alcohol controls have been imposed on:

1. The Kawerau Town Centre bounded by and including Islington Street, Onslow Street and Plunket Street. The area from Onslow Street by the Navalmen's Club to Prideaux Park including the areas around the Ron Hardie Recreation Centre (including the circus paddock, outdoor basketball courts, BMX track and skateboard park). Tamarangi Drive from the Pinelands Hotel site into the Town Centre (including Liverpool Street and Islington Street), Stoneham Walk, Keith McKenzie Park, and The Kawerau Cemetery

The alcohol ban is in place 24 hours a day, seven days a week.

## 3.0 STRATEGIC CONTEXT

There are several strategic documents that will inform the review of the Eastern Bay of Plenty LAP including district visions and plans as discussed below.

### 3.1 District Visions

Whakatāne District Council's vision '*more life in life*' is for communities to flourish, fulfil their potential, and live life to its fullest.

Ōpōtiki District Council's vision of "Strong Community Strong Future".

Kawerau District Council's vision "To create a resilient and sustainable Kawerau that meets the needs of the future" and mission "to represent the interests and aspirations of the community, to promote social, economic, environmental, and cultural wellbeing and to ensure independence is maintained."

Council visions and outcomes should be taken into consideration throughout the review process as guiding principles and to ensure strategic alignment.

### 3.2 District Plans

District Plans are developed through a community process and identify significant resource management issues in a district related to land use and subdivision and how they will be managed. The following section summarises the most relevant objectives and policies of the Whakatāne, Ōpōtiki, and Kawerau District Plans. A common theme in the objectives and policies of all three District Plans is the consideration of amenity and the potential impact of activities on surrounding land uses, and the viability of commercial areas.

#### 3.2.1 Whakatāne District Plan – objectives and policies

The Whakatāne District Plan was made operative on 21 June 2017. The most relevant objectives include:<sup>8</sup>

Section	Reference	Objective
Strategic	Strategic Objective 2	The adverse effects of incompatible use and development on the environment are avoided, remedied, or mitigated.
	Strategic Objective 3	Economic development and growth is stimulated by providing for a wide range of business activities.
Residential and Urban Living Zones	Objective Res1	The maintenance and enhancement of the character and amenity for dwellings and residential activities within Residential and Urban Living Zoned areas.
	Objective Res2	The avoidance of business activities and incompatible home occupations, community facilities and accommodation facilities from establishing and operating within Residential and Urban Living Zones and along urban arterial routes through residential areas unless provided for as part of an approved Structure Plan.
Business	Objective Bus1	The maintenance and enhancement of the level of amenity and the overall quality of the environment within the Business Centre, Commercial, Large Format Retail and Mixed-Use Zones
	Objective Bus2	Serviced and accessible business-zoned land complements the function, amenity and character of the District, including but not limited to the function, amenity and character of the town centres of Edgecumbe, Murupara, Kōpeōpeō, Whakatāne, Te Teko, Taneātua and Matatā.

#### 3.2.2 Ōpōtiki District Plan – objectives and policies

<sup>8</sup> Whakatāne District Council, (2017). *Whakatāne District Plan*.

The Ōpōtiki District Plan was made operative on 5 January 2021. The relevant objectives include the following:

Section	Reference	Objective
Residential	Objective 2.2.2	To manage potential adverse effects of non-residential activities to ensure that the activities complement the amenity values of the District's residential areas.
Town Centre	Objective 3.2.1	The Town Centre is vibrant, functional, attractive, and pleasant with significant cultural and historic values and is a focal point for retail, commercial, cultural and community activities.
Mixed Activity	Objective 4.2.1	To manage the combination of residential and non-residential activities and where practicable avoid, remedy, or mitigate adverse effects on the amenity values of the zone.

### 3.2.3 Kawerau District Plan – objectives and policies

The Kawerau District Plan was made operative on 1 May 2012. The relevant objectives are outlined below.

Section	Reference	Objective
District-wide	B1.1.1.2	To ensure that the noise levels experienced in different areas of the district and in the surrounding environs are appropriate to the character of those areas.
	B1.1.1.3	To minimise potential conflicts between high noise generating activities and more sensitive land uses.
Residential	C3.2.1	To ensure development and activities carried out within and adjacent to the residential zone, maintain and enhance the amenity and character of the existing residential environment.
Commercial	C1.2.1.1	Provide for the commercial viability and cohesiveness of Commercial Zone locations.

## 4.0 STAKEHOLDER ENGAGEMENT AND FEEDBACK INTO POLICY REVIEW

The Local Alcohol Policy review under the Act requires consultation with Police, Licencing Inspectors, and the Medical Officer of Health. Due to additional work created by the ongoing Covid-19 pandemic, it has been challenging to obtain necessary information to inform this review. While data and evidence has been provided in this section where possible, testimonials and comments have also been provided from those with direct experience to best understand the harm alcohol can cause on the community.

### 4.1 Bay of Plenty District Health Board – Medical Officer of Health

The Medical Officer of Health roles and responsibilities regarding alcohol include:



- Reporting on all applications for licences and renewals
- Making reports to DLC or ARLA where there are matters in opposition
- Providing information for development of LAPs
- Applying to ARLA for suspension of an on-licence or a club licence where there is evidence of non-compliance which public health requirements

The District Health Board also has responsibilities for responding to alcohol-related injuries and health conditions and supporting community health outcomes.

The BOP Medical Officer of Health has provided a position statement on alcohol in regard to this review. This has been included as Appendix 3. In summary, recommends that:

- A LAP should actively manage alcohol outlet density by defining limits to alcohol outlet numbers in specific areas or zones
- In particular, areas related to youth (with high youth numbers and use) should have limits on alcohol outlet density; and, the number of premises in areas of high socio-economic deprivation should be capped with the aim of the density eventually being no higher than in other areas.
- Those licences subject to density limits should be off-licensed premises and designated on-licensed premises (e.g. taverns) but not necessarily on-licensed premises where the licence is not designated (e.g. restaurants and cafes).

Also as recommended by the Medical Officer of Health, to implement the above, a tiered approach could be used to set density limits and define:

- One (or possibly two, if appropriate) higher density areas (ie, central business district entertainment precincts);
- Lower density limits in commercial areas;
- Lowest density limits in residential areas;
- Zero alcohol outlets in industrial areas.

Off-licensed premise numbers and designated on-licensed premise numbers are capped at current levels within a specified footpath distance from early childhood centres, primary, intermediate, and secondary schools, polytechnics and universities – and marae. How this distance is specified may be problematic and warrants further discussion (and GIS analysis of policy options). One option that aligns well with public opinion and public health objectives is that:

- No new outlets are permitted within 0.5 km footpath distance of education facilities and marae
- New outlets between 0.5 km and 1.0 km footpath distance may be subject to special conditions (e.g. related to hours of opening, extent of shop-front advertising)
- No conditions beyond 1.0 km footpath distance.

It is recommended by the Medical Officer of Health that maximum trading hours for off-licences are from 10.00 am to 10.00 pm.

In 2020, Toi Te Ora commissioned a survey of people living in the Bay of Plenty and Lakes Districts (Rotorua and Taupō) to understand the views of communities on a wide range of health-related issues including alcohol. Nearly 60% of respondents said they would support more restrictions on advertising and sponsorship by alcohol companies. 63.2% from the Bay of Plenty DHB said that they would support reducing the number of places that can sell alcohol and 62.7% thought that more restrictions on alcohol availability would improve safety in towns and cities at night.<sup>9</sup>

#### 4.2 New Zealand Police

The New Zealand Police has several roles and responsibilities regarding alcohol. These include:

- Checking suitability of an applicant for a liquor licence
- Vetting of previous history or compliance issues
- Targeting-to-risk to reduce harm
- Assessing amenity and good order impacts (including crime)
- Site-checking new premises
- Providing a report if opposed to an application
- Preparing and attending hearings for opposition
- Commenting on Crime Prevention Through Environmental Design
- Monitoring and enforcement – undertaking compliance checks
- Undertaking Controlled Purchase Operations
- Attending incidents that occur at licenced premises, on the roads, and with private homes
- Complete breath testing

Section 78(4) of the Sale and Supply of Alcohol Act 2012 requires territorial authorities to consult with Police prior to producing a draft Local Alcohol Policy. The Police has provided an Intelligence report (see section 8) to inform this research report.

A statement from the Alcohol Harm Reduction Officer (AHRO) from the Eastern Bay of Plenty has also been provided for the purpose of this review and is attached as Appendix 4. In summary, the AHRO comments that there is no need for a LAP in the Eastern Bay of Plenty as the Act covers what is required within its stated purpose and objectives. It is the AHRO's opinion that there has been no influx in new off- and on-licences in the districts, and the ability to correlate incidents and offences with alcohol is problematic due to inconsistencies in data collection. However, the AHRO has stated that the LAP could

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<sup>9</sup> Toi Te Ora. (2020). *Issues of Health and Wellbeing: Population Survey 2020*.

be effective and beneficial in setting trading hours as evidenced by the reduction of trading hours at certain premises resulting in an immediate impact and reduction on reported incidents and offences.

#### 4.3 Licensing inspectors

There are two licensing inspectors for the Eastern Bay of Plenty District – one that covers Whakatāne and Kawerau districts and one for Ōpōtiki District. The licensing Inspector for the Whakatāne and Kawerau District has provided a position statement which is included as Appendix 5. The key points raised include:

- A ruling from the Alcohol Regulatory Licensing Authority which imposed a 12 pm closing time on a central bar has had a roll-on effect of increased compliance across all bars in the CBD. As a result, there was less crime and a significant improvement to the quality of life of the residents in the area.
- Staff working in off-licence premises have related incidents where they have suffered verbal and physical abuse and have been frightened for their safety due to later closing times.
- The current LAP has no restrictions on proliferation of licenced premises and so in Kopeopeo there are three 'off-licenced' premises within the space of 500 metres.
- Kawerau township has three 'off-licenced' premises within 300 metres, with a recent application for a fourth. Both communities are recorded as being in areas of deprivation.
- Pre-loading of alcohol causes issues for bars that remain open late and significant issues are more prevalent after midnight. Lack of crime prevention strategies allow preventable problems to escalate.
- The Eastern Bay of Plenty has a high concentration of off licenced premises in areas of high deprivation.
- Whakatāne Central Business District (CBD), where most of their bars are situated, now has a significant proportion of residential accommodation.

Overall, the licensing inspector for Whakatāne and Kawerau believes that the limiting of hours for on-licences and off-licences is beneficial to communities in that it reduces the movement of people, the noise around residential areas and the risk to staff and patrons around the premises during the later hours. Limiting the number of off-licenced stores not only limits the availability of alcohol, but also the competition for sales which often results in the lowering of prices, or the single serve sales which makes alcohol more accessible for those in the low socio-economic groups.

The Licensing Inspector from the Ōpōtiki District has stated in their submission (attached as appendix 6), that the tighter restrictions of trading hours for on-licences and off-licences is beneficial to the community to reduce the movement of people, the noise and risk to staff and patrons. There have been no new on or off-licences approved in the District and no appeals from the public for licence renewals since at least 2017 when the inspector started. However, the inspector states that there has been previous opposition by the public and police for additional off-licences in the township of Ōpōtiki. It was noted that there is a high

density of on and off-licences in the Ōpōtiki township as five venues are close together (some around 100-200 meters of each other).

#### 4.4 Other key stakeholders

Key stakeholders including EPIC, the Eastern Bay of Plenty Chamber of Commerce, and previous appellants to the provisional LAP in 2012/13 (Foodstuffs, Super Liquor, Independent Liquor) were informed of the review and invited to share their views.

Of those invited, Super Liquor Holdings/The Mill has responded stating it would like to see no changes to the current LAP (specifically, no changes to the current trading hours).

The Eastern Bay of Plenty Chamber of Commerce has engaged with all members which this Alcohol Policy review would affect and has also contacted other bars, restaurants and businesses who aren't members to gauge their feedback.

Feedback provided included comments regarding the opening hours specified on-licences, with one venue in particular noting a discrepancy between locations/venues within walking distance of each other and that their licences had different closing times. It was also highlighted that there was a need for more transparency when it comes to the licencing process.

Iwi within the Eastern BOP have been advised that this review is underway and have been asked whether, and how, they would like to be part of this review. Hāuora organisations within the EBOP have also been contacted in order to support informed dialogue about this key social issue.

Staff have had a hui with Tūhoe Hāuora, Ngāti Awa Social and Health Services – CAYAD Co-ordinator (Community Action on Youth and Drugs), Healthy Families East Cape, Whakaatu Whanaunga Trust, and Te Ao Hou Trust. Feedback received highlighted the concern around the number of off and on licences throughout the districts and the concern surrounding off licences near schools and health services such as Hāuora and drug and alcohol addiction services. It was suggested that bottle stores should open after school starts and close between 3-4pm to reduce accessibility and exposure. Tūhoe Hāuora has successfully made an agreement with the bottle store across the road from their premise in Tāneatua to close between 3-4pm as this is a main route for children leaving school.

Discussions also focussed around the need to expand on the sensitive sites listed within the current policy, and wanted to see medical centres, schools, places of worship, marae, food banks, parks, swimming pools, and cemeteries included. A written submission from Ngāti Awa Social and Health Services from their CAYAD co-ordinator has been provided as appendix 7.

#### 5.0 LICENCE INFORMATION AND ALCOHOL AVAILABILITY

## 5.1 Number and location of current licences

As of July 2022, the Eastern Bay of Plenty region had a total of 136 alcohol licences for 127 venues. A venue may require more than one type of licence depending on how they intend to sell alcohol. For example, a bar may supply alcohol on and off the premise and therefore require a licence for each. Off-licences are also required for the online sale of alcohol and therefore do not have a venue that patrons can physically visit. Off-licences for an online provider allow for the distribution throughout New Zealand.

The number of licences is constantly changing as licences expire, are renewed, and new licences are sought. The table below shows the number of licences by type for each district. The register of active licences (as of July 2022) held in each district is attached as Appendix 1.

Table 2: Number of alcohol licences by type for the Eastern Bay of Plenty (July 2022)

District	Off-licences	On-licences	Club licences	Total
Kawerau District	5	5	5	15
Ōpōtiki District	7	8	7	22
Whakatāne District	28	38	33	99
Total	40	51	45	136

Maps showing the location of venues have been included as Appendix 8 to show density. From these maps, we can see a concentration of on-licences within the business zones of the districts which is common throughout New Zealand. There are three off-licences within the suburb of Kopeopeo in Whakatāne (one of these being a supermarket), which could be considered to be of high density for this particular area.

Roughly 15 current licences in the Eastern Bay of Plenty sell alcohol online. These mainly consist of chain bottle stores and supermarkets which offer a delivery service. As an online off-licence can sell online anywhere in the country, residents can purchase alcohol from outside the region. As the Eastern Bay of Plenty currently does not have delivery providers such as Deliver Easy and Uber Eats, the fast-paced delivery experienced in the larger cities such as Auckland - where alcohol can be delivered within 10 minutes - is not a concern. However, this could become a concern in the future if these delivery services expand into the area. Delivery in the Eastern Bay of Plenty by supermarkets and bottle stores take roughly 1-5 days and incurs a delivery cost.

## 5.2 Number of new licence applications received

The table below shows the number of new applications received for each type of licence by district. Note that 'new applications' includes applications made by a new owner of an existing venue with previous licences to operate. It also includes applications that have been declined. As such, the table does not reflect the number of 'brand new' established venues in the districts. We cannot show how many venues have closed over time due to no records being available that would indicate whether the number of

venues is increasing or decreasing. What the table does indicate, however, is the potential demand for new licences. We can see that during 2020 when COVID-19 had a huge effect on the business sector, there was a dramatic decrease in the number of applications for new licences. It appears that this is recovering since. There does appear to be an increase in the number of licences (specifically off-licences) that are applied for each year within the Whakatāne District.

*Table 3: Number of new applications received for each type of licence by district.*

District	Off-licences	On-licences	Club licences	Total
<b>Kawerau District</b>				
2021	1	3		4
2020				0
2019	3			3
2018		1		1
2017		1		1
<b>Ōpōtiki District</b>				
2021	1			1
2020	1	1		2
2019				0
2018	1	1		2
2017		1		1
2016				0
<b>Whakatāne District</b>				
2021	12	7	2	21
2020	5	3	1	9
2019	5	6	10	21
2018	7	2	2	11
2017	8	4	3	15
2016	2	3	6	11

### 5.3 Number of Special Licences

The number of special licences has continued to increase since 2015, with around 150 being issued each year for a variety of events in the region. Most special licences are issued to club venues who hold events open to non-club members. As a club licence allows for the sale of alcohol to club members, for events open to the public such as prize giving's, weddings, or birthday celebrations, a special licence must be issued. Special licences are also commonly issued for other community events and work functions.

### 5.4 Hours of alcohol availability

Current hours of availability differentiate depending on the licence and venue, within what is stated in the current LAP of maximum hours. Although some venues can stay open until 2am, many bars in Whakatāne central are currently closing earlier than what is licenced. Such as Cobb & Co, Office Bar and

Grill and Javaman Café. Some supermarkets in the region such as in Ōpōtiki and Kawerau have also chosen to close around 8:30pm despite licences and the current LAP allowing the sale of alcohol until 10pm in Kawerau and Ōpōtiki and 11pm in Whakatāne.

## 6.0 DEMOGRAPHIC PROFILE OF EASTERN BAY OF PLENTY

Understanding the demographic makeup of Kawerau, Ōpōtiki, and Whakatāne District's residents and holiday makers can highlight which communities and individuals are most vulnerable to alcohol related harm.

### 6.1 Population

The table below shows the population of each district aged 18 years or older, and to understand proliferation, includes the number of total licences per 10,000 adults. As of July 2022, there are a total of 136 licences throughout the Eastern Bay of Plenty that sell and supply alcohol. 15 in Kawerau (29.2 per 10,000 residents), 22 in Ōpōtiki (32.3 per 10,000 residents), and 99 in Whakatāne (37.9 per 10,000 residents). There are 31.1 licences per 10,000 residents in New Zealand.

*Table 4: District-wide population in the Eastern Bay of Plenty from the 2018 census and number of alcohol licences in 2021.*

District / Area (SA2)	Population 18yrs and older <sup>20</sup>	Number of off-licences	Number of on-licences	Number of club licences	Total licences	Licences per 10,000
<b>Kawerau District</b>	<b>5,124</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>15</b>	<b>29.2</b>
Kawerau Industrial*			1		1	-
Tarawera Park	2,766	5	4	5	14	50.6
Monika Reserve	2,334					
<b>Ōpōtiki District</b>	<b>6,810</b>	<b>7</b>	<b>8</b>	<b>7</b>	<b>22</b>	<b>32.3</b>
Inlet Ōhiwa Harbour East*						
Waiotahi	1,197					
Cape Runaway	1,101	3	2	3	8	72.6
Woodlands	792			1	1	12.6
Ōpōtiki	2,577	5	6	3	14	54.3
Otara-Tirohanga	912					
Oponae	222					
<b>Whakatāne District</b>	<b>26,097</b>	<b>28</b>	<b>38</b>	<b>33</b>	<b>99</b>	<b>37.9</b>

<sup>20</sup> Stats NZ (2018). Population

Manawahe	804					
Matatā – Otakiri	1,284	1	1	1	3	23.3
Onepū Spring	921					
Edgcumbe	1,173	3	1	3	7	59.67
Thornton - Awakeri	1,707	1	1	3	4	23.4
Te Teko Lakes	1,224	1	1	2	4	32.6
Coastlands	1,293	1	2	1	4	30.9
Whakatāne West	2,250	1			1	4.4
Whakatāne Central	2,634	7	20	7	34	129.0
Trident	2,499	1	2	1	4	16.0
Allandale	1,941	2		4	6	30.9
Mokorua Bush	1,098					
Wainui	1,014	1		2	3	29.5
Ōhope	2,559	4	7	2	13	50.8
Galatea	963	1	1	4	6	62.3
Waingarara – Waimana	1,536	2	1	1	4	26
Murupara	1,197	1	2	1	4	33.4
<b>New Zealand</b>	<b>3,595,512</b>				<b>11,185</b>	<b>31.1</b>

Note: Table does not include seasonal visitors.

\* Information unavailable

## 6.2 Ethnicity

Evidence has shown that alcohol-related harm in New Zealand is high to both consumers and others around them, and plays an undeniable role in the social, economic and health inequities experienced by Māori. As shown in the figure below from the 2021 New Zealand Health Survey, Māori and Pacific peoples have a higher prevalence of hazardous drinking compared to other ethnicities, with rates of hazardous drinking for Māori and Pacific people at 33.2% and 26.6%.

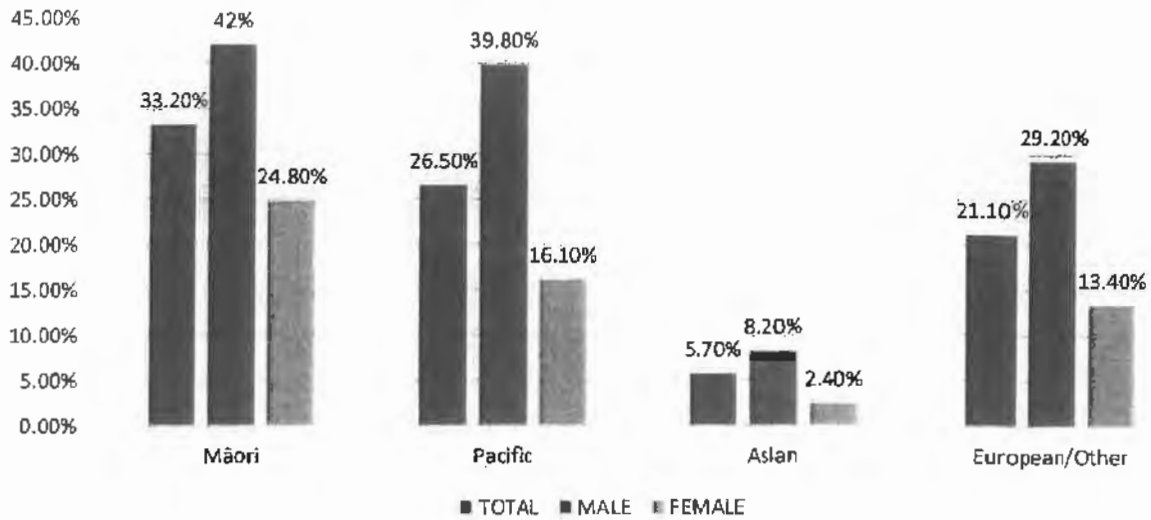
Māori were 1.7 times as likely to be hazardous drinkers and Pacific people were 1.3 times as likely to be hazardous drinkers than their non-Māori and non-Pacific counterparts, after adjusting for age and gender. In contrast, Asian adults were much less likely than non-Asian adults to be hazardous drinkers, after adjusting for age and gender.

*Figure 5: Hazardous drinking 2020/21 in New Zealand.*



## Hazardous drinking 2020/21

Prevalence (%) of hazardous drinking among the total population, by ethnic group (total response)



In the Eastern Bay of Plenty, there is a comparatively high proportion of Māori who live in the three Districts compared to nationally, which should be strongly taken into consideration given the evidence shown that Māori have higher rates of hazardous drinking.

Table 6: Census 2018 Ethnicity by EBOP District<sup>11</sup>

Ethnicity	Kawerau District (%)	Opōtiki District (%)	Whakatāne District (%)	New Zealand (%)
European	52.3	50.5	63.2	70.2
Māori	61.7	63.7	46.8	16.5
Pacific peoples	4.6	3.5	3	8.1
Asian	3	2.8	3.4	15.1
Middle Eastern/Latin American/African	0.3	0.3	0.3	1.5
Other ethnicity	0.8	0.7	1	1.2

### 6.3 Age

<sup>11</sup> Stats NZ, (2018). Population.

While New Zealand is expected to continue to see an ageing population, it is evident that the age structure of the Eastern Bay of Plenty is significantly different, particularly for Māori, where the median age across the 3 districts is between 26-30 years, compared to 49-58 years for non-Māori.

Table 7: Median age of residents in EBOP districts.

District	Median age (years) for Maori	Median age (years) for non-Maori	Median age for total population
Kawerau District	26.3	58.5	38.2
Ōpōtiki District	30	56.1	40.6
Whakatāne District	27.3	49.5	39.8
New Zealand	25.4	39.9	37.4

The EBOP DHB Medical Officer of Health, in their submission on the LAP review, has recommended that to reduce harm related to alcohol consumption, areas related to youth should have limits on alcohol density. The table below shows the age of residents for each area within the EBOP based on the 2018 census. Across the three Districts, the breakdown of age groups is largely the same, with under 15 making up 23% of the population, 15-29 17%, 30-64 42% and 65 and older 18%. Waingarara-Waimana has the largest percentage of under 15-year-olds and Te Teko the largest 15-29 age group.

Table 8: Age of Eastern Bay of Plenty population as of 2018<sup>12</sup>

District / Area (SA2)	Under 15 years	15-29	30-64	65+	# of off-licences	# of on-licences
<b>Whakatāne District</b>	<b>22%</b>	<b>17%</b>	<b>43%</b>	<b>17%</b>	<b>28</b>	<b>38</b>
Manawahe	16%	13%	55%	17%		
Matata-Otakiri	22%	16%	46%	16%	1	1
Onepu Spring	19%	17%	49%	14%		
Edgecumbe	24%	20%	40%	16%	3	1
Thornton-Awakeri	21%	17%	46%	15%	1	1
Te Teko Lakes	25%	23%	42%	10%	1	1
Coastlands	24%	15%	48%	13%	1	2
Whakatāne West	28%	19%	41%	13%	1	
Whakatāne Central	18%	16%	42%	24%	7	20
Trident	22%	18%	37%	23%	1	2
Allandale	19%	17%	40%	24%	2	
Mokorua Bush	17%	12%	48%	23%		
Wainui	27%	19%	43%	10%	1	
Ohope	16%	12%	44%	28%	4	7

<sup>12</sup> Stats NZ, (2018). Population.

Inlet Ohiwa Harbour West	-	-	-	-		
Galatea	27%	19%	44%	10%	1	1
Waingarara-Waimana	30%	19%	40%	11%	2	1
Murupara	29%	22%	39%	10%	1	2
<b>Kawerau District</b>	<b>24%</b>	<b>18%</b>	<b>38%</b>	<b>20%</b>	<b>5</b>	<b>5</b>
Monika Reserve	21%	16%	40%	22%		
Kawerau Industrial	10%	0%	80%	10%		1
Tarawera Park	26%	19%	37%	18%	5	4
<b>Ōpōtiki District</b>	<b>23%</b>	<b>17%</b>	<b>42%</b>	<b>18%</b>	<b>7</b>	<b>8</b>
Inlet Ohiwa Harbour East	-	-	-	-		
Waiotahi	18%	15%	45%	22%		
Cape Runaway	20%	14%	45%	20%	3	2
Woodlands	21%	13%	41%	25%		
Opotiki	27%	21%	40%	13%	5	6
Otara-Tirohanga	18%	17%	44%	21%		
Oponae	27%	17%	44%	12%		
<b>Total</b>	<b>23%</b>	<b>17%</b>	<b>42%</b>	<b>18%</b>		

#### 6.4 Deprivation

Research shows that deprived communities experience more harm per drink, when compared to the least deprived communities with the same level of drinking. Research in New Zealand has also found there to be disproportionately more harm (i.e., dependence, alcohol-related disorder) per drink among drinkers unemployed or of low socio-economic status.<sup>13</sup>

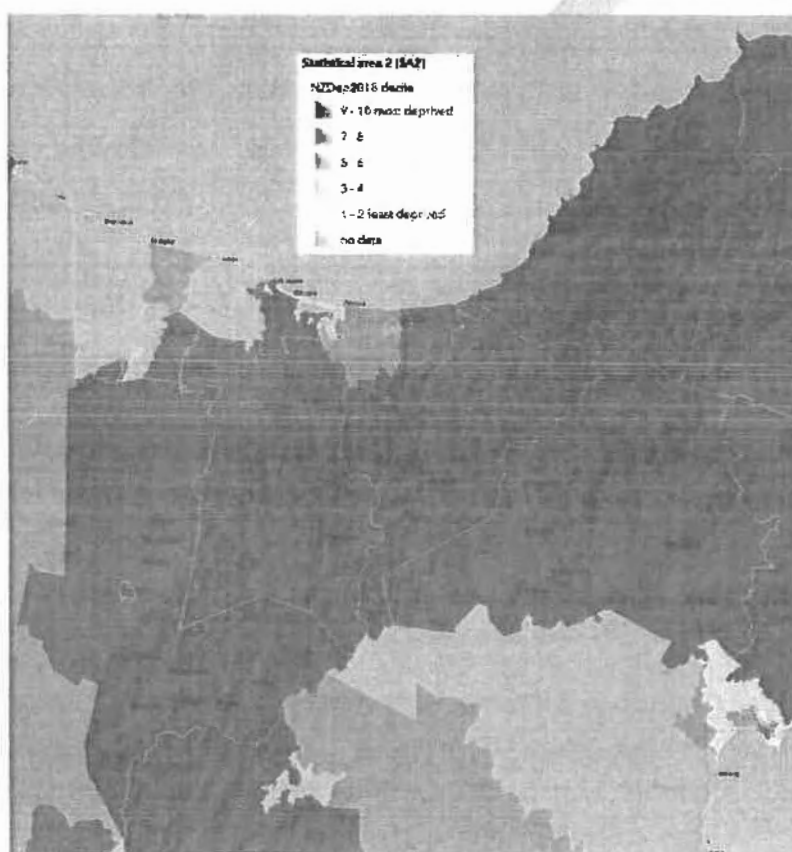
The map below provides a view of socio-economic deprivation, using the New Zealand Index of Deprivation from Environmental Health Intelligence New Zealand. This measures the level of deprivation for residents in each small area (SA2) and is based on nine Census 2018 variables. Decile 1 (pale orange) represents areas that are the least deprived, decile 10 (dark red) represents areas that are the most deprived. Deprivation indices are calculated following each Census to show the relationship between socio-economic deprivation and health outcomes. The Deprivation Index is often used to determine funding formulas and for public services to describe the populations they serve.

<sup>13</sup> Alcohol Healthwatch (2020). *Evidence-based alcohol policies: Building a fairer and healthier future for Aotearoa New Zealand*. Auckland: Alcohol Healthwatch.

Nine census variables that measure the level of deprivation:

1. People with no access to internet at home
2. People aged 18-64 receiving a means tested benefit
3. People living in households with income below an income threshold
4. People aged 18-64 who are unemployed
5. People aged 18-64 without any qualifications
6. People not living in their own home
7. People aged under 65 living in a single parent family
8. People living in households below a bedroom occupancy threshold
9. People living in dwellings that are always damp/or always have mould greater than A4 size

Figure 9: New Zealand Index of Deprivation 2018 (Statistical Area 2)<sup>14</sup>



<sup>14</sup> EHINZ (2018). Socioeconomic deprivation profile

As shown in the figure above, much of the Eastern Bay of Plenty is decile 10 which is the most deprived. Adults living in the most socioeconomically deprived areas were 1.3 times as likely to be hazardous drinkers as adults living in the least deprived areas.<sup>15</sup>

Given the Eastern Bay of Plenty has very high levels of deprivation and a high proportion of Māori residents, this shows that the region is at risk of higher levels of harm compared to the rest of the country.

## 6.5 Tourists and holidaymakers

The Eastern Bay of Plenty is a popular holiday and tourist destination with Ōpōtiki District receiving approximately 30,000 visitors annually and Whakatāne 130,000. Visitor numbers to Kawerau are unavailable. There is also a large number of holiday homes across the region that are not permanently occupied. Census 2018 data is summarised below which shows occupied and unoccupied dwellings across the 3 districts, which provide an indication of the number of holiday homes.

Table 10: Number of occupied and unoccupied dwellings in Eastern Bay of Plenty (2018 Census)<sup>16</sup>

District	Occupied Dwellings	Unoccupied Dwellings
Ōpōtiki	3,261	972
Whakatāne	12,564	1,626
Kawerau	2,511	222
<b>TOTAL</b>	<b>18,336</b>	<b>2,820</b>

There is also a seasonal workforce that employs both domestic and international staff. Tourists and holidaymakers contribute significantly to the region's economy, including the purchase of alcohol at local bars, restaurants, and off-licences.

## 6.6 Regional health indicators

In 2021, the results of the 2017-2020 Regional New Zealand Health Survey<sup>17</sup> were published which measured some aspects of the health of residents across the Bay of Plenty region. District level data is not available within this and has been difficult to source throughout this review.

The survey showed that the health of residents in the Bay of Plenty is largely consistent with the rest of the country. However, it should be noted that the deprivation in the Eastern Bay of Plenty is higher than

<sup>15</sup> Ministry of Health, (2021). *New Zealand Health Survey 2020/21*.

<sup>16</sup> Stats NZ, (2018). *Population and dwellings 2018 Census*

<sup>17</sup> Ministry of Health, (2021). *Regional Data Explorer: New Zealand Health Survey Results 2017-2020*.

that of the Western areas, as outlined earlier. Whakatāne, Ōpōtiki and Kawerau are more rural and isolated from larger cities that have greater access to healthcare. Due to poorer health outcomes for people living in low socio-economic areas, the reality of resident's health in the Eastern Bay is expected to be worse than what is indicated in the wider region results and should be taken into consideration. The survey showed that across the Bay of Plenty, there is a higher rate of unmet health care due to the cost and transport to GP services compared to the rest of New Zealand.

Figure 11: Self-rated health in Bay of Plenty and New Zealand (15+ years) 2017-2020

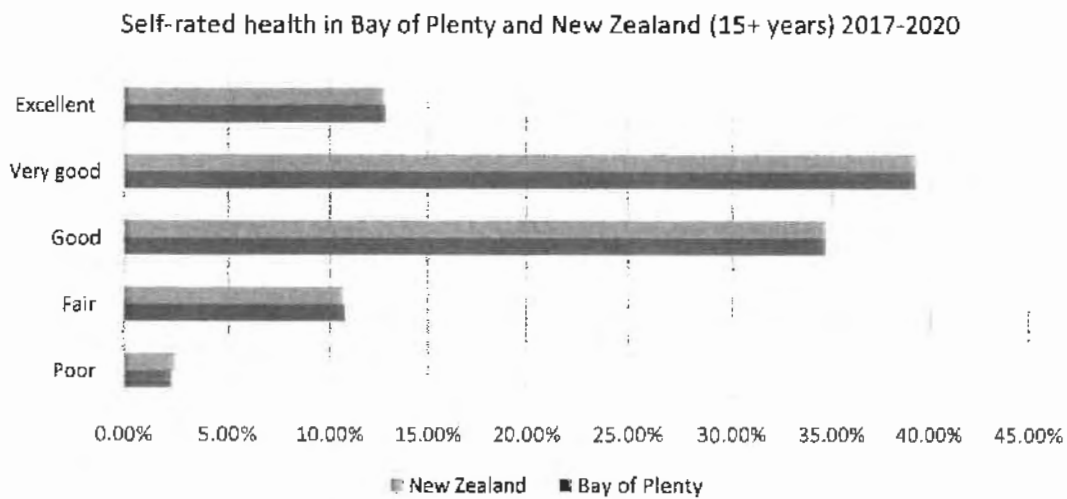
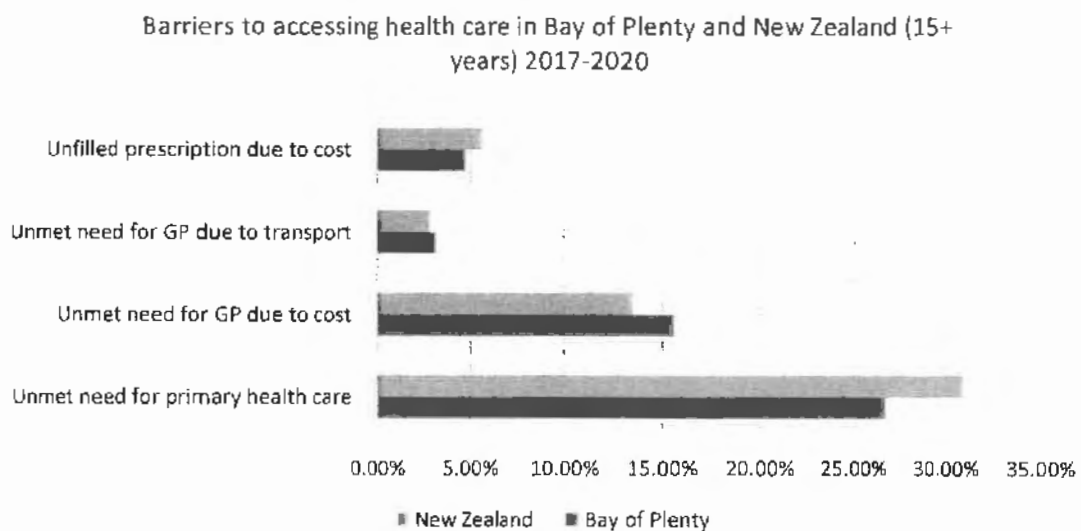


Figure 12: Barriers to accessing health care in Bay of Plenty and New Zealand (15+ years) 2017-2020



## 7.0 HEALTH AND WELLBEING IMPACTS OF ALCOHOL

The Ministry of Health states that while alcohol is part of many New Zealanders' lives, there is no amount of alcohol that is considered safe and drinking any alcohol can be potentially harmful. This section looks more closely at alcohol consumption data, and the effect that alcohol has on wellbeing.

### 7.1 Alcohol consumption

The frequency and quantity of alcohol consumed are key determinants of the harm that alcohol causes in our community. Data from the New Zealand Health Survey 2020/21 has shown that 4 in 5 adults (78.5%) consumed alcohol at some point during that year. This was a decrease of 3.1% on the previous year. 1 in 5 adults (19.9%) had a hazardous drinking pattern in 2020/21. Hazardous drinkers are those who obtain an Alcohol Use Disorders Identification Test score of 8 or more, representing a pattern of drinking that carries high risk of future damage to physical or mental health.<sup>18</sup>

In 2020/21, 1 in 8 New Zealand adults (15+) consumed 6 or more drinks on one occasion at least weekly.<sup>19</sup> In 2021, 499 million litres of alcohol were available for consumption in New Zealand, 0.8% higher than 2020 and 1.7% higher than in 2019. As a proportion of the total volume of alcoholic beverages available for consumption, between 2006 and 2021:<sup>20</sup>

- Beer decreased from 67% to 59%
- Wine increased from 20% to 22%
- Spirits and spirit-based drinks increased from 13% to 20%

This research into consumption and the figures discussed has shown that a high level of alcohol consumption is prevalent across the country and is continuing to rise every year. Due to the lack of research and data at a district level, we can only assume that this level of consumption is also seen across the Eastern Bay of Plenty.

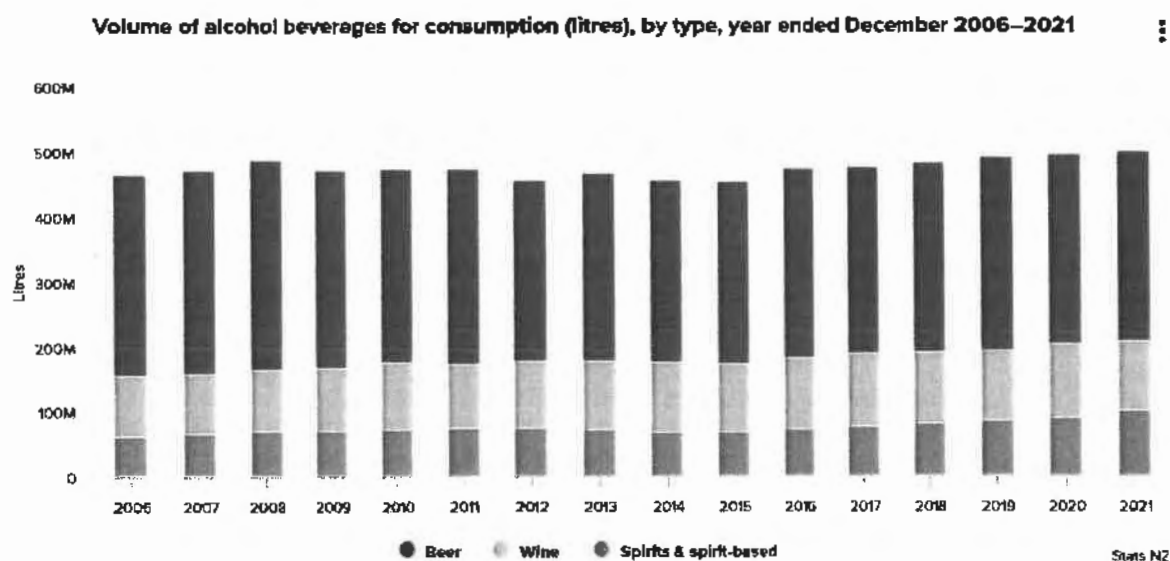
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<sup>18</sup> Ministry of Health, (2021). *Annual update of Key Results 2020/21: New Zealand Health Survey*

<sup>19</sup> Action Point, (2021). *Drinking in New Zealand*.

<sup>20</sup> Stats NZ, (2022). *Alcohol available for consumption: Year ended December 2021*.

Figure 13: Volume of alcohol beverage for consumption (litres), by type, from 2006 – 2021 in New Zealand.  
21



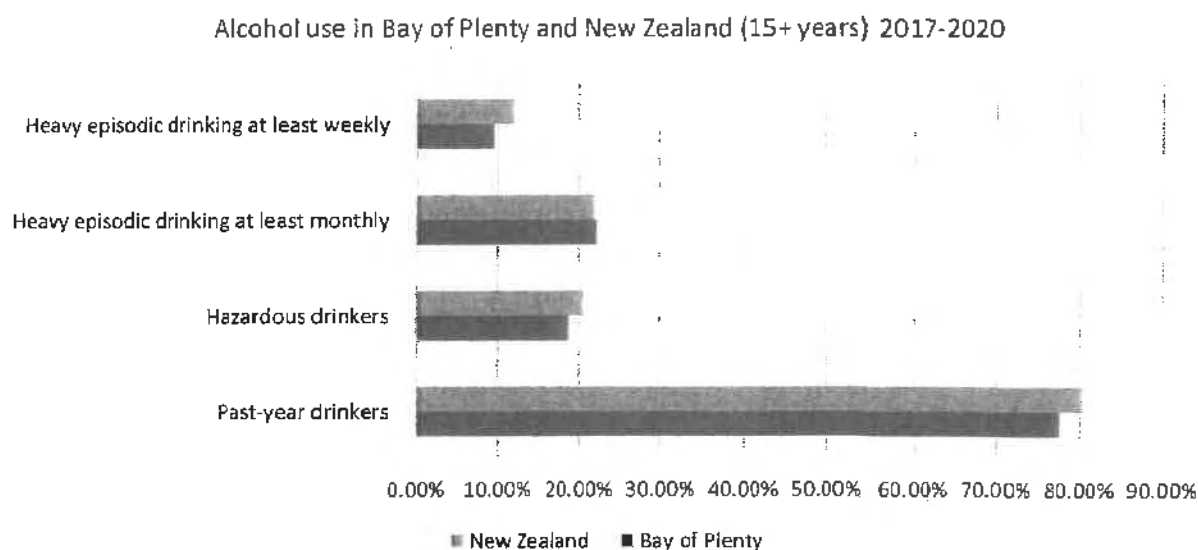
From 2006 – 2020, alcohol available for consumption increased 22.7%. However, the total population increase during this period was approximately 21.5% which could show that the consumption of alcohol is increasing closely due to the increase in population.

As the below figure from the 2017-2020 Regional New Zealand Health Survey shows, alcohol use in the Bay of Plenty is less prevalent in comparison to national figures.

<sup>21</sup> Stats NZ, (2022). Alcohol available for consumption: Year ended December 2021.



Figure 14: Alcohol use in Bay of Plenty and New Zealand (15+ years) 2017-2020



### 7.1.1 Age, gender, and ethnicity in consumption

The prevalence of hazardous drinking varies between ages, socio-economic status and ethnicity and is important to consider when understanding the potential harm alcohol can cause in our region. The key findings below are of hazardous drinkers from the most recent New Zealand Health Survey in 2020/21.<sup>22</sup>

#### Gender:

The prevalence of hazardous drinking was 26.9% among men and 13.2% among women. Men were two times more likely to be hazardous drinkers than women, after adjusting for age.

#### Age:

The highest prevalence of hazardous drinking was among those aged 18–24 years, at 34.9%. The prevalence of hazardous drinking was also high in those aged 25–34 (23.9%), 35–44 (19.8%) and 45–54 (23.8%). Of those aged 15–17 years, 10.2% had engaged in hazardous drinking in the year before taking part in the survey.

#### Ethnicity:

The rates of hazardous drinking for Māori and Pacific people were 33.2% and 26.6%, respectively. Māori were 1.7 times as likely to be hazardous drinkers and Pacific people were 1.3 times as likely to be hazardous drinkers than their non-Māori and non-Pacific counterparts, after adjusting for age and gender. In contrast, Asian adults were much less likely than non-Asian adults to be hazardous drinkers, after adjusting for age and gender.

<sup>22</sup> Ministry of Health, (2021). *New Zealand Health Survey 2020/21*.

### 7.1.2 Impact of COVID-19 pandemic on alcohol consumption

The Covid-19 pandemic has provided a unique opportunity to look at the consumption behaviour of alcohol when during lockdown events, all on-licences and most off-licences were closed. The New Zealand Health Promotion Agency conducted a study on consumption during the 2020 level 4 lockdown and post lockdown at level 1. The findings showed:

	<u>Increase</u>	<u>No Change</u>	<u>Decrease</u>
During Level 4 Lockdown	19%	47%	34%
Post Lockdown – Level 1	14%	64%	22%

Since lockdowns in 2020, drinking habits are returning to pre-lockdown levels for most.

Reasons provided to the same study by participants stated that the increase of consumption was due to feeling stressed/anxious, being bored, and alcohol helping them become more relaxed/switch off. Reasons for decreasing consumption included not being able to, or wanting to socialise as much or go out/visit the pub etc., money/cost, not wanting to go out and buy alcohol, physical health reasons (e.g. weight, health condition, to be healthier), and that the lockdown period was a good time to reduce alcohol consumption and wanting to continue drinking less.<sup>23</sup>

Alcohol availability, which is a useful indication of consumption, is measured on a quarterly basis by Stats NZ using tax figures and breakdowns. During April, May and June of 2020 the amount of alcohol available for consumption decreased by 9% due to on-licence premises and some off-licences being closed. Following the first national lockdown period, New Zealanders consumed more alcohol later in the year, resulting in an overall annual increase of 1.9%.<sup>24</sup> A national push for supporting local businesses, catching up on missed events and people being able to socialise again with friends and family may have been the cause of this increase.

### 7.1.3 Density of venues

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<sup>23</sup> Health Promotion Agency, (2020). *Impact of Covid-19*.

<sup>24</sup> Action Point, (2021). *What we drink*.

A New Zealand study on alcohol density has found that an increase in an additional off-licence venue per 10,000 population in a census area unit is associated with 59 additional police events per year, while one additional on-licence is associated with 42 extra police events<sup>25</sup>

A further factor to consider is that the high concentration of liquor outlets in particular areas of New Zealand can make the barriers to purchase very low. Increased density makes for a high convenience factor due to trading hours often being long for competition and may not require any transport or planning that might otherwise act as a deterrent to the purchase. Some outlets conduct their business in such a way that impulsive alcohol purchases are encouraged. For example, selling single cans of beer or RTDs rather than the traditional “packaged” bottles or cans. This allows small but frequent alcohol purchases.

High outlet density may contribute to a variety of secondary harms that impact negatively on a local community such as off-licence liquor stores attracting graffiti, vandalism, and property damage. The pressure to compete with other liquor retailers in an area can encourage large, alcohol price advertisements and product branding on shop fronts, adjoining walls etc. Both of these negatively affect the aesthetic value of an area, which in turn has flow-on effects for the community. Liquor stores will stay open late into the night as a means of gaining a competitive advantage. This can make these stores especially vulnerable to robberies, as there may be few people around and some venues have poor lighting and little in the way of security measures in place. In addition, it is not uncommon for people to consume alcohol that has been purchased from an off-licence in public areas close to the point of sale. This can impact negatively on a community use of its public spaces. For example a community park may become unusable because it is riddled with broken glass bottles. People may avoid using particular bus stops because they are known to be drinking hangouts. Again, as the number of outlets increases, the negative impact on public amenities is likely to increase. Specific feedback received by community organisations in Ōpōtiki and Elected Members of Ōpōtiki District Council during this review have indicated that this is a concern. Specifically, in regard to a particular off-licence that is adjacent to a skate park.

In terms of a clustering of on-licence premises, for example, having lots of pubs and bars together can mean large numbers of people - many of whom are under the influence of alcohol - coming together in one area. Fights can break out between intoxicated patrons moving between different licensed premises. Queues from neighbouring bars can run into each other resulting in aggression and fighting. Patrons shift from bar to bar in search of price promotions used to attract customers. As the number of outlets in an area increases, the risk that these types of harms will occur also increases. Thus, reducing outlet density is likely to reduce rather than merely displace much of the offending and anti-social behaviours that are associated with outlet clustering.

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<sup>25</sup> New Zealand Law Commission, 92010). *Alcohol In Our Lives: Curbing the Harm*.

This link between density and lower pricing is particularly important in the New Zealand context because smaller off-licence premises already face significant price pressure from supermarkets. National studies observe lower prices in areas with a higher density of liquor outlets. Research suggests that the price elasticity of demand for alcohol is around  $-0.5$ , that is, a 10% increase in price would result in a 5% decrease in consumption. Teenagers are particularly sensitive to price, so raising the cost of alcohol can also help reduce teenage binge drinking.

National research into outlet density around university campuses has shown that each additional off-licence alcohol outlet within 1km of respondent's residences is associated with 5,570 more alcohol related problems among drinkers (e.g. blackouts or episodes of physical aggression), and 10,130 additional second-hand effects (e.g. being insulted or humiliated or having property damaged).<sup>26</sup>

#### 7.1.4 Advertising

Links between alcohol advertising and alcohol consumption are not easy to draw in a conclusive manner as alcohol consumption is influenced by numerous individual and environmental factors, including alcohol affordability and availability. However, alcohol consumption has been shown to be associated with exposure to advertising and other promotional activity. Alcohol advertising can influence minors to drink well before the legal age of purchase.<sup>27</sup> Marketing strategies, such as alcohol sports sponsorships, embed images and messages about alcohol into young people's everyday lives. Alcohol advertising shapes and reinforces a young person's perception that alcohol use is a normal, harmless, fun, everyday behaviour. Harm from alcohol advertising also extends to persons with alcohol use disorders, including dependence, making it harder to remain sober or cut back on drinking when often exposed to this marketing.<sup>28</sup>

International research on alcohol signage at licensed premises has found that exposure to outdoor alcohol advertising near schools was associated with subsequent youth intentions to use alcohol, and the more alcohol advertisements visible outside off-licence outlets, the more violent crime in the local area.

New Zealand research from University of Otago has found that more than half (52%) of children's exposure to alcohol advertising was from advertising outside the home. Shop front signage accounted for up to 30% of all alcohol marketing exposures, while alcohol signs (including billboards, sandwich boards, posters, etc.) accounted for nearly 10% of exposures. Tamariki Māori had alcohol marketing exposures

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<sup>26</sup> Law Commission, (2010). *Alcohol in our lives: Curbing the harm*.

<sup>27</sup> Law Commission, (2010). *Alcohol in our lives: Curbing the harm*.

<sup>28</sup> Alcohol Healthwatch, (2021). *Taking action on alcohol outlet signage: improving amenity and preventing harm*.

that were five times greater than New Zealand European children, and Pacific children had exposure levels that were three times greater.<sup>29</sup>

Accumulated evidence of the causal contribution of alcohol advertising and sponsorship to alcohol-related harm has led to the World Health Organization including restrictions on marketing as one of the “best buys” to reduce harm. Children and adolescents are particularly vulnerable, as exposure to alcohol advertising is associated with earlier initiation of drinking and with drinking larger amounts. National research has reported 50% of alcohol abuse and dependence develops before the age of 20. Among adults, exposure to marketing hinders efforts to reduce drinking or to remain sober.<sup>30</sup>

New Zealand law prohibits the advertising for tobacco and vaping products. Alcohol Healthwatch New Zealand has sought local governments to consider regulating signage and advertising at alcohol outlets to protect the health of communities and improve amenity of neighbourhoods. It is recommended specifically that there should be no alcohol advertising on shop frontage other than the name of the store itself. Public support for advertising restrictions is strong, with 2281 of 2939 submissions to the Law Commission commenting on advertising and marketing. 86% supported banning or restricting all advertising of alcohol in all media.<sup>31</sup>

## 7.2 Health related problems

Alcohol causes many direct and in-direct harms and increases the risk of over 200 health conditions, both chronic and acute, and injuries. The most recent Alcohol Use New Zealand Health Survey in 2012/13 showed that alcohol harms are more prevalent among drinkers living in the most deprived areas which can further exacerbate existing social, health and economic inequalities.<sup>32</sup>

For many health conditions alcohol consumption is a contributing factor, these conditions are known as partially attributable to alcohol. For a small set of conditions alcohol is the only cause and these conditions are said to be wholly attributable to alcohol. Alcohol is also involved in many attendances to emergency departments around the country and is known to put pressure on emergency departments on late nights in the weekends. Alcohol results in health harms that do not necessarily encounter hospital services, but in the form of GP visits for alcohol related conditions, and days off work and/or education.

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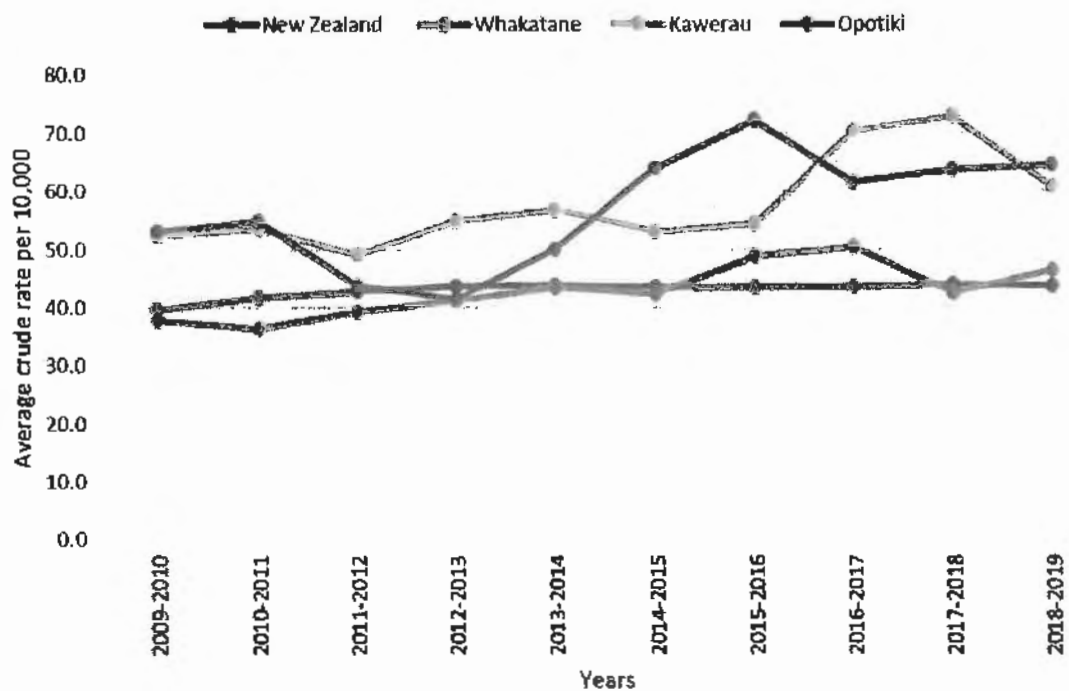
<sup>29</sup> Alcohol Healthwatch, (2021). *Taking action on alcohol outlet signage: improving amenity and preventing harm.*

<sup>30</sup> University of Otago, (2020). *Regulation of alcohol marketing is needed to meet health, wellbeing and equity goals.*

<sup>31</sup> Alcohol Healthwatch, (2021). *Taking action on alcohol outlet signage: improving amenity and preventing harm.*

<sup>32</sup> Ministry of Health, (2015). *Alcohol use 2012/13: New Zealand Health Survey.*

Figure 15: Crude average rates of admissions to hospital for people 15 years and older with conditions wholly attributable to Alcohol 2009-2019.<sup>33</sup>



The data includes persons who have been admitted to hospital with a primary or secondary diagnosis wholly attributable to alcohol, regardless of the reason they were admitted to hospital. This data does not capture visits to the hospital for alcohol related issues where the person was not admitted as a patient. Over the last 10 years the crude rate for Whakatane has been similar to the New Zealand rate while Ōpōtiki and Kawerau have had a higher rate of admissions.

In the most recent research conducted into alcohol related deaths in New Zealand, it was estimated that 802 New Zealanders under the age of 80 died from alcohol related causes in 2007. Injuries were responsible for 43% of alcohol-related deaths, cancers were responsible for 30% of alcohol-related deaths, and other long-term diseases (e.g. liver disease) accounted for 27% of alcohol-related deaths. Men were twice as likely as women to die.<sup>34</sup>

<sup>33</sup> Toi Te Ora, (2022). *Public Health Intelligence Brief: Alcohol related harm Morbidity in the Eastern Bay of Plenty*.

<sup>34</sup> Action Point, (n.d). *Deaths and other harm from alcohol*.

### 7.3 Alcohol support services

Nationally, there are several organisations dedicated to providing help with reducing alcohol harms including individual counselling, peer support services, intensive out-patient programmes and court referral programmes for drink driving. Support can be provided online, over the phone, by text, online chat, or in person. Some services include Alcohol Anonymous, Healthline, and Alcohol and Drug Helpline.

Residents in the Eastern Bay of Plenty have the availability of these national organisations and local providers including social and health services provided by Iwi, Hauora with physical locations in each district. Due to the remoteness and deprivation of some areas within the three districts, there can be additional barriers to accessing support services. Many people do not have access to a phone, internet and/or mode of transport which can make finding and getting to services difficult. Due to high deprivation levels in all three districts, this places residents not only at higher risk of harms but also the ability to seek and receive help.

## 8.0 CRIME AND SAFETY IMPACTS OF ALCOHOL

More New Zealanders report being harmed by the drinking of others than from their own drinking, and Wāhine Māori in particular are shown to experience disproportionately more harms from the drinking of others than other demographic groups.

The Police have provided an Intelligence Report (May 2022) for the purpose of this review which analyses data in relation to alcohol-related offences/incidents in Eastern Bay of Plenty and Murupara. Data is included for the years 2017-2021 inclusive for the area defined by the Eastern Bay of Plenty Policing Area boundary including Murupara. Information from this report has been provided in the sections below.

### 8.1 Crime Statistics

Nationally, offenders were under the influence of alcohol in 37% of offences committed towards another family member. For 13% of offences by family members, victims said it had led them to increase their use of alcohol and/or other drugs.<sup>35</sup>

In 2021, approximately 12% of all recorded offences recorded alcohol as a contributing factor. Violence offences made up the highest proportion of alcohol-related offending in EBOP with 25% and 24% respectively in 2020 and 2021. Drug and anti-social offences made up the next highest proportion of alcohol-related offending with 20% and 21% respectively in 2020 and 2021. As demonstrated below, there has been a considerable increase in the number of offences being contributed to by alcohol.

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<sup>35</sup> Ministry of Justice, (2021). *New Zealand Crime and Victims Survey 2021*.

However, we cannot state confidently that this is an increase in the harm of alcohol or better collection of this data.

*Table 16: Alcohol related offending in Eastern Bay of Plenty between 2019 – 2021.*

Eastern Bay of Plenty offences where alcohol contributing factor	2019	2020	2021	Change between 2019 -2021
Administration*	5%	12%	12%	7%
Dishonesty	0.3%	3%	3%	2.7%
Drug and anti-social	1%	2%	2%	1%
Property abuse	3%	9%	14%	11%
Property damage	7%	18%	17%	10%
Sexual	10%	19%	14%	4%
Violence	10%	25%	24%	14%
<b>Total</b>	<b>5%</b>	<b>12%</b>	<b>12%</b>	<b>7%</b>

\*This includes failure to answer court/bail, escape lawful custody and obstruct/pervert/defeat course of justice.

The Police Intelligence Report provided states that previous analysis of alcohol offending in Murupara indicates that incidents and offences are likely under-reported, particularly for family harm. It is likely this is the same for the other EBOP stations and it is therefore possible that the numbers for reported incidents and offences contained in this report are lower than what is actually occurring in the area.

The following tables show the percentage of family violence incidences where the Alcohol Contributing Factor (ACF) Flag was selected.

*Table 17: All family violence offences within Whakatāne, Ōpōtiki and Kawerau Districts where alcohol was a contributing factor between 2019 -2021*

Eastern Bay of Plenty offences where alcohol contributing factor	2019	2020	2021	Total
Factor not recorded	473	-	-	473
No	228	628	718	1574
Unknown	53	121	155	329
Yes	86	249	287	622
<b>Total</b>	<b>840</b>	<b>998</b>	<b>1160</b>	<b>2998</b>
<b>Percentage</b>	<b>10.2%</b>	<b>25%</b>	<b>24.7%</b>	<b>20.8%</b>

The following tables provide a breakdown of the data by district. The proportion of incidents where alcohol was a contributing factor in family violence offences are fairly similar in each district.

*Table 18: Kawerau District - Family violence offences and alcohol contributing factor (2019-2021)*



Kawerau District offences where alcohol contributing factor	2019	2020	2021	Total
Factor not recorded	88	-	-	88
No	35	116	172	323
Unknown	8	23	35	66
Yes	6	46	51	103
Total	137	185	258	580
Percentage	4.4%	24.9%	20.2%	17.8%

Table 19: Ōpōtiki District- Family violence offences and alcohol contributing factor (2019-2021)

Ōpōtiki District offences where alcohol contributing factor	2019	2020	2021	Total
Factor not recorded	114			114
No	47	118	140	305
Unknown	14	24	36	74
Yes	20	51	64	135
Total	195	193	240	628
Percentage	10.3%	26.4%	26.7%	21.5%

Table 20: Whakatāne District - Family violence offences and alcohol contributing factor (2019-2021)

Sum of Whakatāne District offences where alcohol contributing factor	2019	2020	2021	Total
Factor not recorded	271			271
No	146	394	406	946
Unknown	31	74	84	189
Yes	60	152	172	384
Total	508	620	662	1790
Percentage	11.8%	24.5%	26%	21.45%

## 8.2 Road Policing

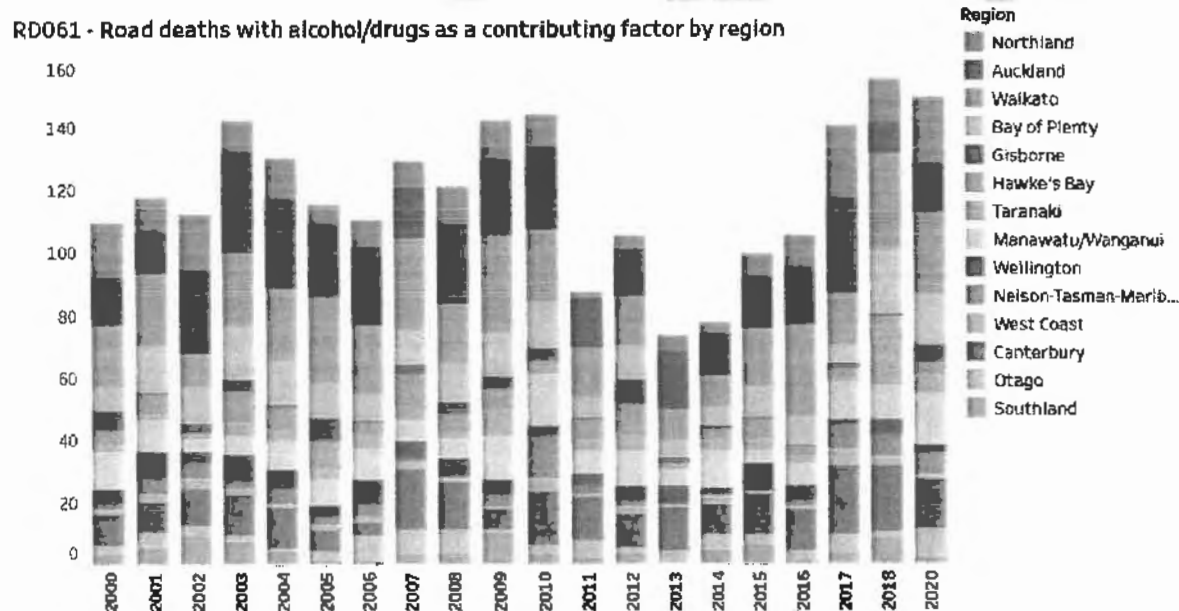
Consuming alcohol degrades driving performance and affects driving behaviour. Alcohol is the second biggest contributing factor to road crashes as it affects reaction times, senses, dulls judgement, vision and increases fatigue. Many studies show that the risk of being involved in a crash increase as a driver's blood alcohol level increases. At high blood alcohol levels, the risk rapidly increases.

The current legal limit for alcohol is 250 micrograms per litre of breath or 50 milligrams per 100 ml of blood for drivers 20 years or over. At this limit, people are twice as likely to crash than someone who has consumed no alcohol.<sup>36</sup> There is a zero-alcohol limit for driving if you are under 20.

Driving while impaired with alcohol is a factor in 44% of all fatal crashes in New Zealand<sup>37</sup>. These deaths impact families and communities and the social cost is significant. Across NZ, 90 of 318 (28%) crashes in 2020 were attributable to alcohol and alcohol was a factor in 262 serious injuries. The figure below shows all road fatalities in New Zealand where the driver had alcohol and/or drugs in their system by region. The wider Bay of Plenty region has the fourth highest rate in the country.

In the EBOP over the last five calendar years, alcohol was a contributing factor in a growing number of serious injury and fatal crashes, increasing from 24% in 2017 to 50% in 2021. Alcohol as a contributing factor in minor and non-injury crashes increased from 9% in 2017 to 23% in 2021.

Figure 21: Road fatalities in New Zealand with alcohol/drugs as a contributing factor by region from 2000-2020.<sup>38</sup>



Source: NZ Transport Agency Crash Analysis System

<sup>36</sup> Waka Kotahi, (2021). *Alcohol*.

<sup>37</sup> Ministry of Transport, (2020). *Annual Statistics: Alcohol and Drugs*.

<sup>38</sup> Ministry of Transport, (2021). *Annual statistics: Alcohol and drugs*.

The table below shows the number of drink driving infringement notices issued in EBOP stations and Murupara in the past five years. This has fluctuated, with the numbers issued in Whakatāne almost halving between 2017 and 2021.

*Table 22: Drink driving infringements within Whakatāne, Ōpōtiki, and Kawerau Districts where the breath alcohol is over 250 but under 400 (which would have resulted in prosecution).*

Drink driving infringements in Eastern Bay of Plenty	2017	2018	2019	2020	2021	Total
Edgecumbe	10	6	8	11	14	49
Kawerau	13	19	15	4	7	58
Ōpōtiki	37	39	29	23	38	166
Taneatua	6	3	4	5	4	22
Te Kaha	5	1	0	1	0	7
Te Teko	2	1	3	4	4	14
Whakatāne	102	93	77	91	54	417
<b>Total</b>	<b>175</b>	<b>162</b>	<b>136</b>	<b>139</b>	<b>121</b>	<b>733</b>

The impact of COVID-19 on police resourcing in 2020/21 has contributed to the reduction of ticketing. Staff were redeployed to managing COVID-19 related issues and events and working in essential front-line roles when required which likely has influenced the table above. Similarly, it is unclear whether very low numbers of infringement of liquor bans is a result of low offending, or if there were no staff available to attend.

## 9.0 CONCLUSION

Taking all of the information contained in this report into account, it is clear that alcohol has a large effect on the health and wellbeing of our residents. A summary of key points is noted below:

- There has been an increase in the number of new licences being applied for, showing demand and potential increase in the number of licences in the future.
- High deprivation across all three districts puts our region at a higher risk of harms relating to alcohol.
- The Eastern Bay of Plenty has a large population of Māori, and research indicates that Māori is disproportionately affected by the harms of alcohol.
- Data provided by the DHB has shown that a large proportion of hospital admissions in the region are wholly contributed to by alcohol, with numbers higher than the national average for Ōpōtiki and Kawerau districts.

- Feedback provided from our stakeholders indicates that there is great potential and support to strengthen the provisions in our LAP. This includes placing tighter restrictions on-licence hours and venue density.
- In 2021, approximately 12% of all recorded offences recorded alcohol as a contributing factor. Violence offences made up the highest proportion of alcohol-related offending in the EBOP with 25% and 24% respectively in 2020 and 2021. Drug and anti-social offences made up the next highest proportion of alcohol-related offending with 20% and 21% respectively in 2020 and 2021.
- In 2020 and 2021, 25% of family violence incidents and offences flagged alcohol as a contributing factor.
- In the EBOP over the last five years, alcohol was a contributing factor in serious injury and fatal crashes, increasing from 24% in 2017 to 50% in 2021. Alcohol as a contributing factor in minor and non-injury crashes has increased from 9% in 2017 to 23% in 2021.
- Residents in the Eastern Bay of Plenty largely support the reduction of the number of venues that sell alcohol and that it would improve the safety of their communities.

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## Appendix 1

### Licensed premises in Whakatāne District as of July 2022

Premise	Licence Type	Licensed hours
Café Coco	On-licence	Weekday hours, Mon-Fri: 8am-1am Weekend hours, Sat-Sun: 8am-1am
Kohutapu Lodge and Tribal Tours	On-licence	Weekday hours, Mon-Fri: 12noon-11pm Weekend hours, Sat-Sun: 12noon-11pm
Matatā Hotel	On-licence	Weekday hours, Mon-Fri: 9am-2am Weekend hours, Sat-Sun: 9am-2am
De Café	On-licence	Weekday hours, Mon-Fri: 10am to 11pm Weekend hours, Sat-Sun: 10am to 11pm
Cadera Limited	On-licence	Weekday hours, Mon-Fri, 11am-12midnight Weekend hours, Sat-Sun, 11am-12midnight
Fisherman's Wharf Café	On-licence	Weekday hours, Mon-Fri, 11am-1am Weekend hours, Sat-Sun, 11am-1am
The Quay Café	On-licence	Weekday hours, Mon-Fri, 11am-10.30pm Weekend hours, Sat-Sun, 11am-10.30pm
C'Vue Restaurant	On-licence	Weekday hours, Mon-Sun 10am-1am Weekend hours, Sat-Sun 10am-1am
Ōhope Trading Company	On-licence	Weekday hours, Mon-Fri: 11am-10pm Weekend hours, Sat-Sun: 11am-10pm
Moxi Café	On-licence	Weekday hours, Mon-Fri: 8am-10pm Weekend hours, Sat-Sun: 8am-10pm
Riverside Tavern	On-licence	Weekday hours, Mon-Fri: 9am-1am Weekend hours, Sat-Sun: 9am-1am
Whakatāne Hotel	On-licence	Weekday hours, Mon-Fri: 8am-2am Weekend hours, Sat-Sun: 8am-2am
New Hong Kong Chinese Restaurant	On-licence	Weekday hours, Mon-Fri: 11.30am-12mid Weekend hours, Sat-Sun: 11.30am-12mid
Javaman Café	On-licence	Weekend hours, Mon-Fri: 8am to 12am Weekend hours, Sat-Sun: 8am to 12am
Kope Turf Bar	On-licence	Weekday hours, Mon-Thur 10am-10pm, Fri 10am-11pm Weekend hours, Sat 10am-11pm, Sun 11am-8pm
Quart House Bar	On-licence	Weekday hours, INT/Smoking Area Mon-Fri: 9am-2am/ EXT Mon-Fri: 9am-10pm Weekend hours, Smoking Area Sat-Sun: 9am-2am/ EXT Sat-Sun: 9am-10pm
Popsies Indian Restaurant, Café and Bar	On-licence	Weekend hours, Mon-Fri: 10am to 12am Weekend hours, Sat-Sun: 10am to 12am
Cobb & Co	On-licence	Weekend hours, Mon-Fri: 8am to 2am Weekend hours, Sat-Sun: 8am to 2am
Kopeo Indian Restaurant	On-licence	Weekend hours, Mon-Fri: 11am to 11pm

		Weekend hours, Sat-Sun: 11am to 11pm
Spice Junction	On-licence	Weekday hours, Mon-Fri, 8am-2am Weekend hours, Sat-Sun, 8am-2am
Ataturk	On-licence	Weekday hours, Mon-Fri 10am-10pm Weekend hours, Sat-Sun 10am-10pm
Whakamax Movies	On-licence	Weekday hours, Mon-Fri: 12noon-10pm Weekend hours, Sat-Sun: 12noon-10pm
Global Thai Restaurant and Bar	On-licence	Weekday hours, Mon-Fri 10am-2am Weekend hours, Sat-Sun 10am-2am
The Wagon	On-licence	Weekday hours, Mon-Fri: 11am-12mid Weekend hours, Sat-Sun: 11am-12mid
Double Zero	On-licence	Weekday hours, Mon-Fri: 9am-10pm Weekend hours, Sat-Sun: 9am-10pm
White Island Redezvous	On-licence	Weekday hours, Mon-Fri: 8am-9pm Weekend hours, Sat-Sun: 8am-9pm
Little Havana	On-licence	Weekday hours, Mon-Fri 11am-1am Weekend hours, Sat-Sun 11am-1am
Thornton Bar and Eatery	On-licence	Weekend hours, Mon-Fri: 9am to 12am Weekend hours, Sat-Sun: 9am to 12am
Cigol Restaurant	On-licence	Weekday hours, 7am-11pm Weekend hours, 7am-11pm
Office Bar and Grill	On-licence	Weekday hours, Mon-Fri: 10am-12mid Weekend hours, Sat-Sun: 10am-12mid
Detour Bar and Lounge	On-licence	Weekday hours, Mon-Fri: 9am-2am Weekend hours, Sat-Sun: 9am-2am
Waingarara Valley Wedding and Event Venue	On-licence	Weekday hours, Mon-Fri: 12pm-1am Weekend hours, Sat-Sun: 12pm-1am
The Smokin' Goose	On-licence	Weekday hours, Mon-Fri 11am-12am Weekend hours, Sat-Sun 11am-12am
Roquette Restaurant and Bar	On-licence	Weekday hours, Mon-Fri, 8am-2am Weekend hours, Sat-Sun, 8am-2am
Plains Hotel	On-licence	Weekday hours, Mon-Fri, 9am-2am Weekend hours, Sat-Sun, 9am-2am
Murupara Hotel	On-licence	Weekday hours, Mon- Fri 10am-1am Weekend hours, Sat-Sun 10am-1am
Aotearoa Breweries NZ LTD	On-licence	Weekend hours, Mon-Fri: 11am to 11pm Weekend hours, Sat-Sun: 11am to 11pm
The Comm	On-licence	Sunday to Thursday 8am - 10pm Friday and Saturday 8am - 12pm
Edgumbe SuperValue	Off-licence	Weekday hours, Mon-Fri, 7am-10pm Weekend hours, Sat-Sun, 7am-10pm
Edgumbe Suppa Value	Off-licence	Weekday hours, Mon-Fri, 7am-9pm Weekend hours, Sat-Sun, 7am-9pm
Kopuriki Store	Off-licence	Weekday hours, 9:00am - 9:00pm Weekend hours, 9:00am - 9:00pm



Mātātā Liquor Centre	Off-licence	Weekday hours, Mon-Fri 9am-10pm Weekend hours, Sat-Sun 9am-10pm
Ōhope Beach Four Square	Off-licence	Weekday hours, Mon-Fri: 7am to 9pm Weekend hours, Sat-Sun: 7am to 9pm
Liquorland Ōhope	Off-licence	Mon-Fri, 9am-10pm Weekend hours, Sat-Sun, 9am-10pm
TK Vineyards Limited	Off-licence – online only	Weekday hours, At any time on any day Weekend hours, At any time on any day
Tāneatua Liquor	Off-licence	Weekday hours, 10am-3pm and 4pm-7.30pm Weekend hours, 1pm-7.30pm
Te Teko Suppa Market	Off-licence	Weekday hours, 7am - 10pm Weekend hours, 7am - 10pm
Waimana General Store	Off-licence	Weekday hours, Mon-Fri: 9am-9pm Weekend hours, Sat-Sun: 9am-9pm
Celestial Wines	Off-licence	Weekday hours, Mon-Fri, 10am-7pm Weekend hours, Sat-Sun, 10am-7pm
Countdown Whakatāne	Off-licence	Weekday hours, 7am-11pm Weekend hours, 7am-11pm
New World Whakatāne	Off-licence	Weekday hours, Mon-Fri, 7am-11pm Weekend hours, Sat-Sun, 7am-11pm
Whakatāne Super Liquor	Off-licence	Weekday hours, Mon-Wed/Thur-Fri: 7am-10pm Weekend hours, Sat/Sun: 7am-11pm/7am-10pm
Whakatāne Pak'n'Save	Off-licence	Weekday hours, Mon-Fri: 7am-11pm Weekend hours, Sat-Sun: 7am-11pm
Kope Super Liquor	Off-licence	Weekday hours, Mon-Fri 9am-11pm Weekend hours, Sat 9am-11pm, Sun 9am-9pm
Awakeri Liquor Spot	Off-licence	Weekday hours, Mon-Fri, 9am-10.30pm Weekend hours, Sat/Sun, 9am-10.30pm/9am-10pm
Liquorland Whakatāne	Off-licence	Weekday hours, Mon-Fri, 9am-11pm Weekend hours, Sat/Sun, 9am-11pm/9am-10pm
Oak Off Licence	Off-licence	Weekday hours, 10-6pm Weekend hours, 10-6pm
Sawvie Florists	Off-licence	Weekday hours, Mon-Fri: 9am-5pm Weekend hours, Sat/Sun: 9.30am-2pm
King Street Liquor	Off-licence	Weekday hours, Mon-Thurs/Fri, 9am-9pm/9am-10pm Weekend hours, Sat/Sun, 9am-10pm, 9am-9pm
Box and Bow	Off-licence	Weekday hours, Orders 24/7, delivery 6am-11pm Weekend hours, Orders 24/7, delivery 6am-11pm
Plains Hotel	Off-licence	Weekday hours, Mon-Fri 9am-11pm Weekend hours, Sat-Sun 9am-11pm
Murupara Hotel	Off-licence	Weekday hours, Mon-Fri, 10am-11pm Weekend hours, Sat-Sun, 10am-11pm
Ōhope Chartered Club Incorporated	Off-licence	Weekday hours, Mon-Fri, 9am-8pm Weekend hours, Sat-Sun, 9am-8pm
Aotearoa Breweries LTD	Off-licence	Weekday hours, 10am – 12am

		Weekend hours, 10am – 12am
The Comm	Off-licence	Weekday hours, 8am – 12am Weekend hours, 8AM - 12AM
Rangitāiki Cosmopolitan Club	Off-licence	Weekend hours, Mon-Fri: 1am to 1am Weekend hours, Sat-Sun: 9am to 1am
Edgecumbe Squash and Tennis Club	Club licence	Monday to Friday, 5pm to 12am Saturday, 10am to 12am
Edgecumbe Sports Club Incorporated	Club licence	Weekday hours, Mon-Thur/Fri, 6pm-10pm/6pm-12mid Weekend hours, Sat/Sun, 2pm-12mid/2pm-10pm
Galatea Memorial Club Incorporated	Club licence	Monday to Friday, 10am to 12am Saturday, 10am to 1am Sunday, 10am to 10pm
Galatea Social Sports and Squash Club Incorporated	Club licence	Weekday hours, Mon-Fri: 12pm-12am following day Weekend hours, Sat-Sun: 12pm-12am following day
Matatā Rugby and Sports Club	Club licence	Weekday hours, Mon -Fri: 4pm – 10pm Saturday and Public Holidays 12pm to 12am Sunday, 4am to 9pm
Galatea Rugby and Sports Club Incorporated	Club licence	Saturday, 12pm to 12am
Murupara Golf Club Incorporated	Club licence	Weekday hours, Mon, Tues, Thur: 4pm-9pm Wed, Fri: 10:30am-12am Weekend hours, Sat-Sun: 10.30am-12am
Murupara Rugby and Sports Club Inc	Club licence	Weekday hours, Mon-Thurs/Fri: 5pm-11pm/4pm-12mid Weekend hours, Sat/Sun: 12noon-12pm/12noon/10pm
Ōhope International Golf Club Incorporated	Club licence	Monday to Sunday, 10am to 12am
Ōhope Bowling Club Incorporated	Club licence	Weekday hours, Mon-Fri:8am-12midnight Weekend hours, Sat-Sun: 8am-12midnight
Rūātoki Sports and Culture Club	Club licence	Supervised: 2pm-7pm Restricted: 7pm-12am Weekday hours, Mon-Thurs/Fri 6pm-10pm/5pm-12mid Weekend hours, Sat/Sun 2pm-12mid/12noon-10pm
Tāneatua Squash Rackets Club Incorporated	Club licence	Weekday hours, Mon-Fri, 5pm-12mid Weekend hours, Sat, 10am-12mid
Tāneatua Rugby Football Club Incorporated	Club licence	Monday to Thursday, 7pm – 10pm Friday, 7pm – 12am Saturday and Public Holidays, 12pm – 12am Sunday, 2pm – 9pm
Te Teko Golf Club Incorporated	Club licence	Weekday hours, Tue-Wed/Thu-Fri, 11am-8.30pm/11am-12mid Weekend hours, Sat/Sun, 11am-12mid/11am-11pm
Te Teko Memorial RSA Incorporated	Club licence	Monday to Friday, 4pm to 11pm Saturday, Sunday and Public Holidays, 12am to 10pm

Marist Rugby and Sports Club Whakatāne Inc	Club licence	Weekday hours, Thu & Fri: 5pm-Midnight Weekend hours, Sat: 5pm-Midnight
Whakatāne Squash Club	Club licence	Weekday hours, Mon-Thurs/Fri: 5pm-11pm/5pm-12mid Weekend hours, Sat/Sun: 10am-12mid/11am-12mid
Whakatāne Golf Club Incorporated	Club licence	Weekday hours, Mon-Wed/Thu/Fri: 12pm-10.30pm/12pm-11pm/12pm-12am Weekend hours, Sat/Public Holiday: 10.30am-12am/10.30am-12am
Whakatāne Bowling Club	Club licence	Weekday hours, Mon-Fri: 8am-12am Weekend hours, Sat-Sun: 8am-12am
Whakatāne Town Association Football Club Inc	Club licence	Weekday hours, Mon-Thurs/Fri: 5pm-10.30pm/5pm-12mid Weekend hours, Sat/Sun: 11pm-12mid/11pm-10.30pm
Whakatāne RSA Incorporated	Club licence	Weekday hours, Mon-Fri, 9am-1am Weekend hours, Sat-Sun, 9am-1am
Whakatāne Sports Fishing Club Incorporated	Club licence	Weekday hours, Mon - Fri: 11am to 12am Weekend hours, Sat - Sun: 11am to 12am
United Rugby Sports Club (Whakatāne) Incorporated	Club licence	Weekday hours, Mon-Fri, 12noon-9pm Weekend hours, Sat-Sun, 12noon-9pm
Whakatāne Lawn Tennis Club Inc	Club licence	Weekday hours, Mon-Thurs/Fri, 11am-10.30pm/11am-12mid Weekend hours, Sat/Sun, 11am-12mid/11am-9pm
Paroa Rugby and Sports Club Incorporated	Club licence	Weekday hours, Mon-Fri: 12noon-12mid Weekend hours, Sat-Sun: 12noon-12mid
Awakeri Sports and Community Club Inc	Club licence	Weekday hours, Mon-Fri 10am-12am Weekend hours, Sat-Sun 10am-12am
Bay of Plenty Regional Council Social Club Incorporated	Club licence	Weekday hours, Mon-Fri: 11am-12am Weekend hours, Sat: 11am-12am
Four Thirty Social Club Incorporated	Club licence	Monday to Friday: 4pm to 10pm
Whakatāne Darts Association Whakatāne War Memorial Hall	Club licence	Weekday hours, Thurs: 6.00pm-11:00pm Weekend hours, Sat: 10:30- 10PM, Sun: 10:00 - 7PM
Whakatāne Yacht Club	Club licence	Weekday hours, 3pm-10pm Weekend hours, 9am-10pm
Poroporo Rugby and Sports Club	Club licence	Weekday hours, Mon-Thurs: 4pm-10pm/ Fri: 4pm-12am following day Weekend hours, Sat: 4pm-12am following day/ Sun: 4pm-8pm
Ōhope Chartered Club Incorporated	Club licence	Weekday hours, Mon-Fri, 9am-2am the following day Weekend hours, Sat-Sun, 9am-2am the following day
Rangitāiki Cosmopolitan Club	Club licence	Monday to Sunday: 9am to 1am
<b>Total:</b>	<b>99</b>	

Licensed premises in Ōpōtiki District as of July 2022

Premise	Licence Type	Licensed hours
Ōpōtiki Four Square	Off-licence	Weekday hours, Mon-Fri, 7am-8pm Weekend hours, Sat-Sun, 7am-8pm
Waihou Bay Lodge	Off-licence	Weekday hours, Mon-Fri, 10am-11pm Weekend hours, Sat-Sun, 10am-11pm
Ōpōtiki New World	Off-licence	Weekday hours, Mon-Fri, 7am-10pm Weekend hours, Sat-Sun, 7am-10pm
Thirsty Liquor	Off-licence	Weekday hours, Mon-Fri, 9am-11pm Weekend hours, Sat-Sun, 9am-11pm
Bluemoon Four Square	Off-licence	Weekday hours, Mon-Fri, 7am-9pm Weekend hours, Sat-Sun, 7am-9pm
Te Kaha Beach Resort	Off-licence	Weekday hours, Mon-Fri: 11am-10pm Weekend hours, Sat-Sun: 11am-10pm
Waingarara Valley Wedding and Event Centre	On-licence	Weekday hours, Mon-Fri: 12pm-1am Weekend hours, Sat-Sun: 12pm-1am
The Royal Hotel	On-licence	Weekday hours, Mon-Sun, 9am-1am Weekend hours, Sat-Sun, 9am-1am
Hello India Tandoori Restaurant	On-licence	Weekday hours, Mon-Fri: 10am-11pm Weekend hours, Sat-Sun: 10am-11pm
Crossroad Brew Bar & Restaurant	On-licence	Weekday hours, 10AM- 1AM (following day) Weekend hours, 10AM- 1AM (following day)
Ōpōtiki Hotel	On-licence	Weekday hours, Mon-Fri, 9am-1am Weekend hours, Sat/Sun, 9am-1am/9am-11pm
Bridge Street Cafe & Grill	On-licence	Weekday hours, Mon-Fri 10am-11pm Weekend hours, Sat-Sun 10am-11pm
Slim'S Bar	On-licence	Weekday hours, Mon-Fri, 9am-1am Weekend hours, Sat/Sun, 9am-1am/9am-12mid
Crossroads	On-licence	Weekday hours, Mon-Fri: 10am-1am Weekend hours, Sat-Sun: 10am-1am
Masonic Lodge	On-licence	Weekday hours, Mon-Fri: 9am -1am Weekend hours, Sat
Te Kaha Beach Resort	On-licence	Weekday hours, Mon-Fri: 11am-10pm Weekend hours, Sat-Sun: 11am-10pm
Te Whanau-A-Apanui Rsa	Club licence	Weekday hours, Mon-Fri, 11am-12mid Weekend hours, Sat-Sun, 11am-12mid
Waihou Bay Sport Fishing Club	Club licence	Weekday hours, Mon-Fri: 1pm-1am Weekend hours, Sat-Sun: 1pm-1am
Ōpōtiki Golf Club	Club licence	Weekday hours, Mon-Thur/Fri, 11am-11pm/11am-12mid Weekend hours, Sat/Sun, 11am-12mid/11am-11pm
Ōpōtiki Bowling Club	Club licence	Weekday hours, Mon-Fri: 10am-12mid Weekend hours, Sat-Sun: 10am-12mid

Tikirau Victory Club	Club licence	Weekday hours, Fri: 4pm-10pm Weekend hours, Sat/Sun: 4pm-10pm/2pm-10pm
<b>Total:</b>	<b>22</b>	

#### Licensed premises in Kawerau District as of July 2022

Premise	Licence Type	Licensed Hours
Kawerau Super Liquor	Off-licence	Weekday hours, Mon-Fri: 9 am to 10 pm Weekend hours, Sat-Sun: 9 am to 10 pm
Kawerau New World	Off-licence	Weekday hours, Mon-Fri 8am-10pm Weekend hours, Sat-Sun 8am-10pm
Star Suprette	Off-licence	Weekday hours, 8am -10pm Weekend hours, 8am -10pm
Liquor Hut Kawerau	Off-licence	Weekday hours, Mon-Fri: 9 am to 10 pm Weekend hours, Sat-Sun: 9 am to 10 pm
Kawerau Liquor	Off-licence	Weekday hours, 10am - 11pm Weekend hours, 10am - 11pm
The Mansoon Limited	On-licence	Weekday hours, Mon-Fri, 11am-11pm Weekend hours, Sat-Sun, 11am-11pm
Caymans Sports Bar	On-licence	Weekday hours, Mon-Fri, 9am-1am Weekend hours, Sat-Sun, 9am-1am
Betyi's Turkish Cafe	On-licence	Weekday hours, 10am - 10pm Weekend hours, 10am - 10pm
Jive Cafe	On-licence	Weekday hours, 10am-10pm Weekend hours, 10am-10pm
Kawerau Sports Club	Club licence	Weekday hours, Mon-Tue/Wed-Thur/Fri, 5pm-10pm/5pm-12mid/2pm-12mid Weekend hours, Sat/Sun, 2pm-12mid/2pm-10pm
Kawerau Golf and Squash Club	Club licence	Weekday hours, Mon-Thurs/Fri: 12noon-10.30pm/10am-12mid Weekend hours, Sat-Sun: 10am-12mid
Kawerau Cosmopolitan Club	Club licence	Weekday hours, 8am-1am Weekend hours, 8am-1am
<b>Total:</b>	<b>12</b>	

## Appendix 2

## Status of Local Alcohol Policies, May 2022

Territorial Authority (Council / District Council)	Draft LAP notified	Provisional LAP notified	Revised Provisional LAP notified	Adopted	Status of 1 <sup>st</sup> LAP @May 2022	Status of any Reviewed/2 <sup>nd</sup> LAP @May 2022
Ashburton	Oct 2013	Mar 2015	Nov 2015	Aug 2017	Adopted	
Auckland	May 2014	May 2015	Sept 2017		Revised Provisional	
Buller	Dec 2013				Draft	
Central Hawke's Bay	Sept 2013	Aug 2015	June 2016	Sept 2018	Adopted	
Central Otago	Dec 2013				Draft	
Chatham Islands					No Draft	
Christchurch City	May 2013	May 2015	Sept 2016		Revised Provisional – since aborted	
Clutha					No Draft	
Dunedin City	Sept 2014	June 2015	May 2018	Oct 2018	Adopted	
Far North	July 2014	Sept 2015			Abandoned Provisional <sup>1</sup>	
Gisborne	April 2014	Sept 2014	Jan 2016	Mar 2018	Adopted	
Gore	Feb 2014	Dec 2014		Aug 2016	Adopted	2 <sup>nd</sup> LAP adopted Feb 2020
Grey					No Draft	
Hamilton City	Jan 2014	Nov 2015			Discontinued Provisional <sup>11</sup>	
Hawkei	July 2013	Dec 2013	April 2015	Aug 2016	Adopted	Draft 2 <sup>nd</sup> LAP May 2022
Horowhenua	Feb 2017	Sept 2017	Feb 2020	Aug 2020	Adopted	
Hurunui	June 2013	Mar 2014	Jan 2016	Dec 2017	Adopted	
Hutt City (Lower Hutt)	May 2013	Jan 2014	Nov 2015	Sept 2016	Adopted	2 <sup>nd</sup> LAP Adopted Oct 2018
Invercargill/Southland*	Feb 2014	Dec 2014		Aug 2016	Adopted	2 <sup>nd</sup> LAP Adopted Dec 2019
Kaikōura	1. Aug 2013 2. Sept 2019	unknown		Feb 2020	Adopted	
Kaipara					No Draft	
Kapiti Coast					No Draft	
Manawatu					No Draft	
Marlborough	Mar 2014				Draft	
Masterion/South Wairarapa/ Carterton*	Sept 2014	June 2015	Nov 2017	Aug 2018	Adopted	
Matamata-Piako	Oct 2013	Feb 2014		April 2017	Adopted	
Napier City and Hastings*	Oct 2013	April 2016		March 2019	Adopted	
Nelson City	Aug 2013				Draft	
New Plymouth/ Stratford*	Mar 2014	Oct 2014	Mar 2016	Feb 2017	Adopted	
Otorohanga	Aug 2013	Feb 2014	Aug 2015	May 2016	Adopted	
Palmerston North City	Jul 2017 Aug 2019 Sept 2020	May 2021			Provisional <sup>1</sup>	
Porirua City	June 2014	Dec 2014	April 2016	Oct 2017	Adopted	
Queenstown Lakes					No Draft	
Rangitikei					No Draft	
Rotorua Lakes	Jan 2014	Nov 2015		Feb 2019	Adopted	
Ruapehu	Aug 2013	April 2014	N/A	Aug 2014	Adopted	2 <sup>nd</sup> LAP adopted Feb 2018
Selwyn	June 2013	Jan 2014	Oct 2015	April 2017	Adopted	
South Taranaki					No Draft	
South Waikato					No Draft	
Taranue					No Draft	
Tasman	July 2013	Dec 2013		Mar 2015	Adopted	2 <sup>nd</sup> LAP adopted April 2021
Taupō					No Draft	

Tauranga City	Aug 2013	Jan 2014		Nov 2015	Adopted	2 <sup>nd</sup> LAP in draft
Thames-Coromandel	Oct 2013	Dec 2013		Jan 2016	Adopted	2 <sup>nd</sup> LAP adopted Jan 2022
Timaru/Mackenzie/Waimate*	Oct 2013	Jan 2014		Mar 2018	Adopted	
Upper Hutt City					No Draft	
Waikato	Oct 2014	April 2015	June 2016	Jan 2017	Adopted	
Waimakariri	May 2013	Oct 2013		Feb 2015	Adopted	2 <sup>nd</sup> LAP adopted Dec 2018
Waipa	July 2013	Jan 2014		July 2016	Adopted	
Wairoa	Aug 2020	Oct 2020		Nov 2020	Adopted	
Waikato					No Draft	
Waikato	Aug 2013	Dec 2013	Feb 2014	June 2016	Adopted	
Wellington City	July 2013	Jan 2014			Provisional, not progressing	
Western Bay of Plenty	Aug 2013	Jan 2014		Nov 2015	Adopted	2 <sup>nd</sup> LAP adopted May 2022
Westland					No Draft	
Whakatāne/Kawerau/ Ōpōtiki (Eastern Bay of Plenty)*	July 2013	Feb 2014		Mar 2016	Adopted	
Whanganui	Mar 2017	July 2017		Aug 2019	Adopted	
Whāngārei	June 2015	Oct 2015			Provisional	

\*Joint LAP

\* <https://www.stuff.co.nz/auckland/local-news/northland/102878620/council-abandons-work-on-local-alcohol-pol/cv>

\*\* [https://www.nzherald.co.nz/hamilton-news/news/article.cfm?c\\_id=1503386&objectid=12018539](https://www.nzherald.co.nz/hamilton-news/news/article.cfm?c_id=1503386&objectid=12018539)



## **BOPDHB Position Statement**

### **Alcohol and Other Drugs**

#### **Introduction**

The Bay of Plenty District Health Board (BOPDHB) is required under legislation:

- to improve, promote, and protect the health of people and communities;
- to promote the inclusion and participation in society and independence of people with disabilities;
- to reduce health disparities by improving health outcomes for Maori and other population groups;
- to exhibit a sense of social responsibility by having regard to the interests of the people to whom it provides, or for whom it arranges the provision of, services;
- to exhibit a sense of environmental responsibility by having regard to the environmental implications of its operations.

The BOPDHB has prepared a series of position statements which demonstrate its commitment to these objectives, and outlines its viewpoint on different health issues.

#### **1.0 The Bay of Plenty DHB affirms the following:**

##### **1.1 It will undertake activities to support Government policy,**

- i) to reduce alcohol consumption at a population level
- ii) to reduce excessive drinking by adults and young people
- iii) to reduce the harm caused by alcohol use, including crime, disorder, public nuisance, and negative public health outcomes
- iv) to support the safe and responsible sale, supply and consumption of alcohol
- v) to improve community input into local alcohol licensing decisions
- vi) to improve the operation of the alcohol licensing system

##### **1.2 It will actively work towards reducing alcohol and other drug related harm inequalities in identified high-risk populations.**

##### **1.3 It supports the reduction of the adult drink driving limit to a Blood Alcohol Concentration of 0.05 to reduce the number of deaths and injury on our roads, and the impact that has on trauma admissions to BOPDHB hospitals.**

##### **1.4 It supports public health professionals in the continued monitoring of licensed premises.**

##### **1.5 It will advocate this position statement when opportunities arise on alcohol issues to district and regional councils and government select committees, and providing input into district and regional alcohol policies and plans.**





- 1.6 It will promote alcohol and other drugs harm reduction strategies through the provision of information to health care professionals and the public.
  - 1.7 It will work to increase access to Alcohol and Other Drugs treatment options across the Bay of Plenty, particularly for high-risk populations.
  - 1.8 It will work to increase opportunities for screening and brief interventions in appropriate health settings such as the Emergency Department and primary care.
  - 1.9 It will link with PHOs, NGOs, other parts of the health sector and the community to ensure that it has a full understanding of current alcohol and other drug issues as experienced by the population of the BOP, and can then determine the best interventions to address any emergent issues.
  - 1.10 It will engage with other sectors such as Education, Justice, NZ Police and Corrections, in a coordinated approach to plan for, promote, support and deliver alcohol and other drug harm reduction and treatment strategies through partnerships based on shared outcomes and coordinated investment.
  - 1.11 When opportunities arise, it will advocate for the following approaches that are endorsed by the World Health Organisation:
    - i) raised alcohol prices
    - ii) raised purchase age of alcohol
    - iii) reduced alcohol accessibility, particularly through the reduction in the number of outlets that sell alcohol
    - iv) reduced marketing and advertising of alcohol
    - v) increased drink-driving counter-measures
- 2.0 The Bay of Plenty DHB notes that:**
- 2.1 Alcohol is the world's most commonly used drug. The health effects of use and abuse of alcohol are variable on an individual; however there is no dispute that alcohol is a significant cause of disease and disability, and has wider implications within NZ society than other drugs.
  - 2.2 Alcohol use is deeply embedded in New Zealand. While moderate alcohol use presents few immediate problems for most people, any consumption of alcohol has potential harmful effects, particularly vulnerable populations such as young people, unborn children, older people, and patients with hepatic infections. Excessive use comes at a high cost, through accidental injury, violence, motor vehicles crashes, cancer, mental health problems; alcohol addiction; and other alcohol related disorders. Decreased alcohol consumption should result in a healthier New Zealand population and lead to lower health care costs.
  - 2.3 There is increasing use of recreational drugs especially amongst younger people, and abuse of prescription medicines, often amongst older people. A range of measures are required to reduce harm from these drugs, from Police surveillance and enforcement to better monitoring of the prescribing and use of medicines. The public health approaches to reducing the harm to communities is largely managed by the Ministry of Health, with five BOP providers being contracted to deliver Community Action on Youth and Drugs (CAYAD) programmes.
  - 2.4 Preventing intoxication would significantly reduce the harm from alcohol. The social and physical context affects the potential for harm from intoxication, so strategies are needed that protect the drinker and others by altering the social environments where people drink.



**TOI TE ORA**  
**PUBLIC HEALTH**  
Bay of Plenty • Lakes Districts

Toi Te Ora Public Health  
PO Box 2120  
TAURANGA 3144

1 August 2022

Tēnā koutou,

**Re: Eastern Bay of Plenty District Council Local Alcohol Policy**

Thank you for the invitation to provide feedback on the Eastern Bay of Plenty District Council Local Alcohol Policy (LAP).

Overall, it is recommended that the Eastern Bay of Plenty District Council LAP is retained and strengthened. A large body of evidence supports the idea of addressing alcohol-related harm and improving health outcomes through population-based prevention strategies that focus on changing physical and social environments. Further strengthening of the LAP provides a significant opportunity for Council to improve the local environment and culture around the drinking of alcohol.

The following is recommended to strengthen the existing LAP:

**Define maximum alcohol outlet (on- and off-licensed premises) density in specific areas and zones.**

It is recommended that to reduce harm related to alcohol consumption and especially excessive alcohol consumption:

- A LAP should actively manage alcohol outlet density by defining limits to alcohol outlet numbers in specific areas or zones
- In particular, areas related to youth (with high youth numbers and use) should have limits on alcohol outlet density; and, the number of premises in areas of high socio-economic deprivation should be capped with the aim of the density eventually being no higher than in other areas.

- Those licences subject to density limits should be off-licensed premises and designated on-licensed premises (e.g. taverns) but not necessarily on-licensed premises where the licence is not designated (e.g. restaurants and cafes).

To implement the above, a tiered approach could be used to set density limits and define:

- One (or possibly two, if appropriate) higher density areas (ie, central business district entertainment precincts);
- Lower density limits in commercial areas;
- Lowest density limits in residential areas;
- Zero alcohol outlets in industrial areas.

#### **Cap proximity of alcohol outlets at current levels within a specified footpath distance from schools, other education facilities - and marae**

It is recommended that off-licensed premise numbers and designated on-licensed premise numbers are capped at current levels within a specified footpath distance from early childhood centres, primary, intermediate and secondary schools, polytechnics and universities – and marae. How this distance is specified may be problematic and warrants further discussion (and GIS analysis of policy options). One option that aligns well with public opinion and public health objectives is that:

- No new outlets are permitted within 0.5 km footpath distance of education facilities and marae
- New outlets between 0.5 km and 1.0 km footpath distance may be subject to special conditions (eg related to hours of opening, extent of shop-front advertising)
- No conditions beyond 1.0 km footpath distance.

#### **Trading hours of off-licensed premises.**

It is recommended that maximum trading hours for off-licences are from 10.00am to 10.00 pm.

#### **Alcohol-related harm in the Eastern Bay of Plenty**

Toi Te Ora Public Health reviewed the data for people living in the Eastern Bay of Plenty hospitalised with conditions wholly attributable to the consumption of alcohol (Toi Te Ora Public Health, 2022). Conditions wholly attributable to alcohol consumption are conditions considered to be entirely caused by the consumption of alcohol. These conditions represent a fraction of the health harm caused by alcohol and, for example, do not include hospitalisations from cancers or injuries where alcohol might be a contributing factor. From the data review we found the following:

- The rate of admission to hospital with conditions wholly attributable to alcohol according to the broad measure (that is, where a wholly attributable condition is either a primary or secondary

diagnosis) has typically been higher in Kawerau and Ōpōtiki territorial authority areas than the average rate for New Zealand over the last 10 years.

- All three Eastern Bay of Plenty territorial authority areas (Whakatāne, Kawerau and Ōpōtiki) have rates of admission for wholly attributable conditions (as a primary or secondary diagnosis) caused by chronic alcohol use that are higher than the New Zealand average.
- The rate for wholly attributable conditions caused by acute alcohol use is similar to the New Zealand average in the Eastern Bay of Plenty territorial authority areas. The rates for conditions caused by acute alcohol consumption might be affected by more limited access to health services in rural areas.
- Several domiciles (small geographic areas equivalent to the Stats NZ 2013 Area Units) in the Eastern Bay of Plenty territorial authority areas rank within the top 100 (out of a total number of 1851 ranked domiciles) for the number of admissions according to the broad definition, these include Kawerau, Opotiki, and Whakatāne North.

The brief (Toi Te Ora Public Health, 2022) that details this review has been provided separately.

#### Issues of Health and Wellbeing – Population Survey 2020

In 2020, Toi Te Ora Public Health undertook a Health and Wellbeing Population Survey (Toi Te Ora Public Health, 2020). This is an important source of information as it helps us understand the views of people who reside in the Bay of Plenty, across a range of issues relevant to public health. Alcohol related findings showed:

- 63.2% of respondents support reducing the number of places that sell alcohol
- 59.5% of respondents support more restrictions on advertising and sponsorship by alcohol companies
- 71.6% of respondents think that supermarkets and liquor stores should not be selling alcohol before 10 am
- 62.7% of respondents think that more restrictions on alcohol availability would improve safety in towns and cities at night.

These results indicate the community is generally supportive of tighter regulatory measures to manage issues such as alcohol outlet density, sponsorship, trading hours and availability.

#### Alcohol outlet density

Studies show that increased alcohol outlet density (of both on- and off-licensed premises) is associated with an increase in:

- Alcohol consumption (Campbell et al, 2009)
- Levels of serious violent offending (Connor et al, 2020)

- Alcohol-related traffic crashes (Campbell et al, 2009; Connor et al, 2020)
- Harm to quality of life, including effects on work performance, relationships, physical health, and finances (Cameron et al, 2019)
- Under-age youth access and consumption of alcohol (Chen et al, 2009).

Alcohol outlet density is associated with social deprivation in New Zealand (Cameron et al, 2017; Hay et al, 2009). Overall, people have greater access to alcohol outlets when they live in more socially deprived areas. Higher alcohol outlet density results in premises competing on price and longer opening hours, further accelerating accessibility to cheap alcohol, and contributing to higher levels of alcohol consumption and alcohol-related harm (Cameron et al, 2019).

Through the LAP, Council has an ability to cap, and then lower, alcohol outlet density.

### **Off-licence trading hours**

Increased alcohol outlet trading hours are associated with increased alcohol consumption and related harms. Evidence indicates that:

- High risk drinkers are more likely to take advantage of longer trading hours
- Longer trading hours correspond with an increase in motor vehicle crashes
- Restrictions to trading hours will contribute to preventing alcohol-related harm (Connor et al., 2020).

According to Huckle et al (2020), 73% of alcohol in New Zealand is consumed in private residences. Limiting the amount of off-licensed alcohol outlets, and restrictions on their trading hours, may lessen the consumption of alcohol in private residences. Furthermore, restricting trading hours of both on- and off-licensed premises has the most significant impact on alcohol harm reduction amongst 15 – 29 year olds (Connor et al, 2020).

The LAP and associated trading hour restrictions could make a meaningful contribution to minimising alcohol-related harm in the Eastern Bay of Plenty.

Thank you for the opportunity to provide this feedback. Please contact Toi Te Ora Public Health if you would like clarification on any points raised in this letter.

Sincerely,



## References

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## Appendix 4

### Alcohol Harm Prevention Officer – NZ police Position Statement

I have been asked in my role of Alcohol Harm Prevention Officer (AHRO) with Police to comment on four questions posed by the Whakatāne District Council as it reviews the Local Alcohol Policy (LAP) for the Eastern Bay of Plenty.

The role of AHRO within Police includes completing checks for new/renewals of premise licences and managers certificates, preparing and attending hearings for any oppositions, reporting to the DLC and compliance checks. PST (Public Safety Team) attend any incidents that occur at licenced premises, complete breath testing and attend accidents/incidents on our roading system and within private homes where alcohol could have been factor.

The Eastern Bay of Plenty (EBOP) AHRO covers Whakatāne, Kawerau, Ōpōtiki and Murupara (for specials/licensing/manager applications only).

Police have been asked if a LAP is still needed in the EBOP? No. The current LAP is a 90% regurgitation of The Sale and Supply of Alcohol Act 2021 (The Act) making it nothing more than a quick reference document.

The EBOP in the time I have been here has not seen an influx of new off-licences or the opening of new on-licence premises that provide night-time entertainment. The current LAP has steered away from prescribing the number, type and density of licenced premises, looking more at the economic benefits the alcohol industry provides to the area (Whakatāne District Council, 2016).

The ability to correlate incidents/offences attended within public places or private premises where alcohol has been purchased from an off-licence premise such as a Supermarket or Bottle Store is more problematic, making the ability to look at density, trading hours and locations more difficult if this data is not being collected.

Are there benefits from having a LAP, in the Eastern Bay? Not in its current form as The Act covers what is required with its 'purpose and objectives'.

Is there any evidence for changing the existing policy? Yes, Police utilising evidence gathered have been able to get a reduction in trading hours of on-licence premises.

What matters require change and why? This follows on from the above question. If there could be one change to the LAP if it continues to exist is the 'trading hours', The current LAP does have reduced trading hours less than the default maximum under section 43 of The Act. Further reductions would be beneficial for any future new/renewals.

An example where the LAP could be effective is the setting of trading hours. The current on-licence maximum closing time in Whakatāne is 2:00am. Police were able to get this reduced for several premises after a large number of incidents/offences were linked to them. After gathering evidence at the time of renewal Police opposed the application bringing the matter before the DLC. The outcome was a reduction in the closing time from 2:00am to midnight.

This change resulted in an immediate impact on reported incidents/offences linked to these premises.

In summary the LAP was 'to provide the policy framework for licensing decisions' to meet the object of the Act (Whakatāne District Council, 2016), the Act does that itself as the LAP provides no other local specific policies that are binding with licence holders.

A recent study looking at local alcohol policies across territorial authorities between July 2014 and January 2019 found there was no strong evidence of a reduction in crime following the implementation of local alcohol policies. (Menclova, 2021)

Going against these findings locally, Police have shown that a reduction in trading hours has had a marked impact on reducing alcohol related offences where an on-licence premise has been linked to an incident/offence.

Another driver of alcohol consumption could be attributed to the socioeconomic deprivation profile with many areas within the Eastern Bay of Plenty at decile 10. (Berl, 2020), making it a further consideration.

In conclusion reduced trading hours have had the most impact for the decline in crime related incidents/offences in the EBOP (Whakatāne) when linked to on-licence premises. A reduction in trading hours for off-licence premises you would also expect to see some reduction in calls for service to private premises where alcohol has had a causal effect.

The ultimate question that needs to be asked is 'What is it the LAP wants to achieve that is location specific to the Eastern Bay of Plenty that is not already covered by The Act?

#### References

Berl. (2020, January 27). *berl, Making sense of the numbers*. Retrieved from Deprivation Index 2018:

<http://berl.co.nz/economic-insights/deprivation-index-2018>

Menclova, L. T.-H. (2021, November Volume 17). Local Alcohol Policies in New Zealand an overview of their implementation and effects on crime. *Policy Quarterly*, pp. 73-79.

Whakatāne District Council. (2016, March). Eastern Bay of Plenty Local Alcohol Policy. 3. Whakatāne.



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Statement made by Jan Pryor, Chief Licensing Inspector,

To inform the Local Alcohol Policy Review 2022

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#### PERSONAL STATEMENT OF JAN PRYOR

##### The current situation:

The current Local Alcohol Policy (LAP) applies to the entire Eastern Bay of Plenty District (EBOPD) including Whakatāne, Ōpōtiki and Kawerau District Councils. The Eastern Bay of Plenty Licensing Committee covers all three of these areas, however Ōpōtiki has their own Licensing Inspector and so I cannot comment on the policy with respect to Ōpōtiki District.

Whakatāne and Kawerau each have a main residential and economic centre. The EBOPD is widespread covering an area of 12,200 km containing a number of smaller communities that satellite from these centres, some being quite rural and remote such as Murupara. The EBOPD contains a number of low socio-economic areas, and Kawerau had the country's lowest average income in 2021.

The current LAP limits the hours granted for any on-licence to:

- Whakatāne District: 9.00 am to 2.00 am the following and
- Ōpōtiki and Kawerau Districts: 9.00 am to 1.00 am the following day.

(The national default hours are 8.00 am to 4.00 am the following day)

Section 77 (1) of the Sale and Supply of Alcohol Act 2012 states:

A local alcohol policy may include policies on any or all of the following matters relating to licensing (and no others):

(a) location of licensed premises by reference to broad areas:

(b) location of licensed premises by reference to proximity to premises of a particular kind or kinds:

(c) location of licensed premises by reference to proximity to facilities of a particular kind or kinds:

(d) whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district:

(e) maximum trading hours:

(f) the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions: (g) one-way door restrictions.

**Executive summary:**

- Location of licences in particular areas or near certain types of facilities:

Whakatāne Central Business District (CBD), where most of their bars are situated, now has a significant proportion of residential accommodation

- The density of licences in a particular area

The Eastern Bay of Plenty has a high concentration of off licensed premises in areas of high deprivation

- *Discretionary conditions on groups of licences, such as one-way door restrictions:*

Pre-loading of alcohol causes issues for bars that remain open late and significant issues are more prevalent after midnight. Lack of crime prevention strategies allow preventable problems to escalate.

- *The restriction of the default maximum opening hours set out in the new legislation, which are 8am to 4am for on-licences and 7am to 11pm for off-licences.*

The later the premises are open the greater the effects of noise associated with movement of people around residential areas.

The later that sale of takeaway alcohol is allowed increases the potential for preloading and greatly increases the risk of violence and abuse to staff, patrons, and service personnel.

**Evidence:**

***On-licence -***

When the current alcohol policy was adopted in March 2016 significant changes were beginning to be undertaken in the Whakatāne CBD.

Consultation with Iwi in 2010 ruled out a number of areas that had been considered to accommodate urban growth in the Whakatāne area. The *'Whakatāne Integrated Urban Growth Strategy'* proposed a number of options including the need for infill development in the Kopeopeo and Whakatāne town centre. As a result, a number of unit developments were approved in the Whakatāne CBD, where most of their bars are situated.

Over the following years a significant proportion of residential accommodation became available in George Street, Quay Street, and the Strand East. More development is currently being processed in the Strand East and Kopeopeo as land parcels have become available to developers.

A Licensing hearing in 2020 attracted opposition from the body corporates and residents of both the George Street and Quay Street apartments due to the amount of public nuisance and disorder around the apartments, especially after midnight on Thursday Friday and Saturday nights.

Police presented evidence to support these objections and the premises were denied a new On-licence. On appeal the Alcohol Licensing and Regulatory Authority (ARLA) reinstated the licence but with a closing time of midnight.

Currently there are 84 apartments in the streets immediately adjacent to the CBD with a consent being processed for a new development within close proximity.

The body corporates of the current apartments advise that since the apartments were first made available the demographic has change from more holiday lets to more full-time accommodation of which a proportion is retirement accommodation. The response from apartment residents to proposed 2 am closing of 'night club' style bars shows that there is little tolerance left from residents for the associated problems that they encounter.

The COVID19 pandemic has been a great leveller for the hospitality industry. In 2020 patrons were unable to access bars and restaurants, the financial hardship this caused contributed to a number of problem premises changing hands.

The new owners of those bars have voluntarily agreed to midnight closing in response to public objections from residents.

Police have reported that the midnight closing by those bars has had a roll-on effect, with increased compliance across all bars in the CBD resulting in less crime.

The body corporates have reported a significant improvement to the quality of life of the residents in the area due to the decrease in public nuisance and disorder.

New Trends of alfresco dining have also had an impact on the way people use licensed premises. Bringing the alcohol outside also brings the noise outside which has an impact for residents.

The limits of a town centre designed in the 1800s means that very few premises have outside space in which to accommodate the alfresco trend. This has meant a demand for dual use of the shared areas and footpaths in the CBD. The blurring of these areas has not assisted either the premises or the agencies to ensure compliance with licence conditions and very few licensees employ the use of barriers to define drinking and walking areas.

Some of our smaller satellite communities also do not have an appetite for the noise of bands nor the disruption of 2 am closing.

The Horseshoe Inn in Matatā was built in the early 1900s when the township was a busy commercial hub. In recent years as the township became more of a residential area, the zoning changed, the operation became increasingly subdued, and patronage declined.

The Hotel changed hands in 2020 and the style of operation also changed. Increased patronage and full use of the approved hours saw the bar remain open until 2pm. Bands play frequently in the garden bar area and summer temperatures mean that the doors and windows remain open, increasing the noise to the surrounding houses.

Noise complaints led to public objections when the licensee attempted to renew.

***Pre-loading:***

During the 2020 licensing hearing police submitted evidence of incidents of pre-loading around the bars in the CBD. The areas were identified as the carpark on Kakahoroa Drive, The Strand in front of the bars, the stop-bank by the I-site centre and the walled seating area in front of what is now Little Havana.

The evidence pointed at most pre-loading occurring in cars parked around the popular bars but noted that packaging was detected around the seating areas on the stop-bank and walled seating areas.

With off-licence alcohol available until 11.00 pm at much cheaper prices than the bars themselves, and 4 off-licence premises within a 1-kilometre radius of the CBD, pre-loading is facilitated making it much more difficult for duty managers to monitor levels of intoxication in the bars.

In 2022 Police reported similar issues in a Jellicoe Street bar in Kawerau where alcohol, purchased elsewhere, is being smuggled into the bar and drunken disorder is occurring outside the premises.

### ***Off-Licence -***

As previously mentioned Kopeopeo is also earmarked for infill development with plans in place for social housing development replacing an empty supermarket lot.

The current LAP has no restrictions on proliferation of off-licensed premises. Kopeopeo, a small satellite community, that is already the closest shopping centre to the areas of highest deprivation, has three off-licensed premises within the space of 500 metres along King Street.

Kawerau township, also recorded as being a high deprivation area, has three off-licensed premises within 300 metres of each other, with a recent application for a fourth.

Under the present LAP, premises with an off-licence in Whakatāne can open at 7.00 am and must close at the latest at 11.00 pm (the national default hours). In Kawerau the hours are 8.00 am to 10.00 pm and in Ōpōtiki the hours are 7.00 am to 10.00 pm.

Whilst the Kawerau closing times acknowledge the hardships in that area, the Whakatāne hours do not take into account the areas of deprivation either in the township itself or in the satellite communities.

In Te Teko and Tāneatua, gang activity poses a significant risk around those premises during the later hours. Police have successfully negotiated a closing time of 7.30 pm for the Tāneatua bottle store due to the increased risks posed to store operators in the later hours.

Staff working the Te Teko off-licensed grocery store have related incidents where they have suffered verbal and physical abuse and have been frightened for their safety. In 2021 the shop surveillance cameras captured a shoot-out between Police and a fleeing offender in the main street outside the store.

### ***Crime Prevention through Environmental Design (CPTED):***

Antisocial behaviour, such as pre-loading, sneaking pre purchased alcohol into bars and unsafe environments created through ignorance or a lack of compliance can be eliminated through good prevention methods.

In 2005, The Ministry of Justice released the national guidelines for Crime Prevention through Environmental Design (CPTED) which provides three approaches to managing the physical environment to reduce the opportunity for crime.

Using these guidelines, in 2019 the Health Promotion Agency (HPA) released 'Safer Bars and Restaurants – A guide to Crime Prevention through Environmental Design, which provides guidance information for

licensees and their staff to assist in establishing and maintaining a safe and secure environment in pubs, taverns, hotels, bars restaurants, cafes and clubs. Later they added 'Safe bottle Stores' as a new resource.

The three CPTED approaches are:

- Natural approaches – the design of the built environment, visibility so that crime is less likely to occur
- Organised approaches – security guards, community patrols, or Police who can act as guardians of a business or a public space
- Mechanical approaches – closed circuit television (CCTV), counter barriers, roller doors, alarms.

CPTED is based on one simple idea: that crime results partly from the opportunities presented by the physical environment. This means that by changing the physical environment we can reduce the chances of crime occurring.

Requiring Licensees to implement CPTED principles would be consistent with the object of the Act and assist agencies in gaining compliance with the Act

**Conclusion:**

1. Limiting of hours for on-licences and off-licences is beneficial to our communities in that it reduces the movement of people, the noise around residential areas and the risk to staff and patrons around the premises during the later hours.
2. Limiting the number of off-licensed stores not only limits the availability but also the competition for sales which often results in the lowering of prices, or the single serve sales which makes alcohol more accessible for those in the low socio-economic groups.
3. Requiring the implementation of CPTED stratagem would assist in maintaining a safer environment, assist compliance and reduce the chance of crime occurring.

These are my submissions.

## Appendix 6

### LAP STATEMENT – Ōpōtiki DISTRICT COUNCIL

The current Local Alcohol Policy (LAP) applies to the entire Eastern Bay of Plenty District (EBOPD) including Whakatāne, Ōpōtiki and Kawerau District Councils. The Eastern Bay of Plenty Licensing Committee covers all three of these areas however the Ōpōtiki has its own Liquor Licencing Inspector of which we comment on.

Ōpōtiki has a main residential and economic centre. Ōpōtiki is widespread covering 3101km<sup>2</sup> containing a number of small communities up the Coast as far as Te Kaha and remote as Capetunaway often taking close to 2 hours to travel to.

The current LAP limits the hours granted for any on-licence to:

9.00am to 1.00am the following day.

(The national default hours are 8.00am to 4.00am the following day).

Not much has changed in Ōpōtiki since the last LAP was accepted back in 2016. I have been Liquor Licencing Inspector since March 2017.

We have had no new Off or On Licences in the District during this time though some people have enquired. Our number of Off and On Licences have reduced in the area by one OFF Licence and one ON Licence. It is likely that there may be a new Off Licence application up the Coast and a new Club Licence is being applied for as well as an Online Sales Off Licence. We have had no objections from the public when premises have applied for their renewals in Ōpōtiki since my time as Liquor Licencing Inspector.

I believe if there were more applications for Off Licences in the town of Ōpōtiki there would be opposition from the Police and ourselves and the public as I believe we have sufficient off licences for a small town of Ōpōtiki. Past Off Licences that have been applied for in the town of Ōpōtiki have been opposed by the public.

We have had a few hearings for applicants wanting to apply for their Manager's Certificate and the Police have opposed due to drink driving convictions etc.

We have had no noise complaints about premises either.

Just the other week though there was an incident between Sports Ōpōtiki which is a Rugby Club and Slims bar where people had been drinking a Sports Ōpōtiki and then went over to Slims bar and there was nearly an altercation with Mob members at the bar.

As the current LAP has not restrictions on increasing of licensed premises some premises may be deemed too close to each other ie Masonic Lodge (On License), Thirsty Liquor (Off License both connected physically to each other), Ōpōtiki Hotel (On Licence), Thirsty Liquor (Off Licence both connected physically to each other and all four owned by the same person and (all within 100 – 200 metres of each other) then Slims bar around the corner and Sports Ōpōtiki (Club) also not far away) also.

We do have an Alcohol Control Bylaw that controls the possession and consumption of alcohol in specified public places to reduce alcohol related harm and prevents consuming alcohol in public spaces. I have not heard of any problems regarding this.

Ōpōtiki District Council erects signs in public places.

There is an alcohol ban 24 hours a day, seven days a week in all public places.

There is alcohol ban on certain beaches and reserves over the Christmas period and in all public places.

The current LAP limits the hours granted for any on-licence to

9.00am – 1.10am the following day for Ōpōtiki and Kawerau Districts

9.00am – 2.00am the following day for Whakatāne District.

(The national default hours are 8.00am to 4.00am the following day).

The limiting of hours for on licences and off licences is beneficial to our community as it reduces the movement of people, the noise and risk to staff and patrons.

**Tanya Moore**

**Liquor Licencing Inspector**



## **CAYAD Submission for the Eastern Bay of Plenty Local Alcohol Policy (LAP) Review – Why We Still Need an LAP**

Community Action Youth and Drugs (CAYAD) is a primary prevention approach that aims to reduce the harm young people and their families/whānau experience from alcohol and other drugs. Te Whatu Ora currently fund 20 CAYAD sites in cities, towns, and rural areas across New Zealand. As well as Te Tohu O Te Ora O Ngāti Awa, there are three other CAYAD sites in the Eastern Bay of Plenty – Whakaatu Whānaunga Trust in Opotiki, Tuhoe Hauora in Taneatua and Te Ika Whenua Hauora in Murupara.

The national CAYAD programme outcomes are:

1. Increased informed community discussion and debate about issues related to alcohol and other drugs.
2. Effective policies and practices to reduce alcohol and other drug related harm are adopted.
3. Increased local capacity to support young people in education, employment, and recreation.
4. Reduced supply of alcohol and other drugs to young people.

### **1. Do we still need a Local Alcohol Policy?**

Alcohol is the most widely consumed drug in New Zealand and causes the most harm given how accessible it is and that its only restriction is the legal purchase and consumption age. In 2020/2021 78.5% of those aged fifteen years and older consumed alcohol, of which 19.5% drank alcohol in a way that caused harm to themselves (*A Stocktake of How New Zealand Is Dealing with Drug Use and Drug Harm, 2022*).

Local alcohol policies have an aim of reducing the availability and accessibility of alcohol to our communities. By continuing to have a Local Alcohol Policy for the Eastern Bay of Plenty, we will be able to work alongside our communities to ensure the sale, supply and consumption of alcohol is done so in a safe and responsible manner in attempt to minimise alcohol related harm. The benefit of having an alcohol policy is that it allows the community to have a voice in how the sale and supply of alcohol is administered. It gives the community a voice to be able to identify what they see as problematic and where and when alcohol should/should not be sold.

### **2. Hours of Opening (Off-Licence)**

It is recommended that the hours of the sale of alcohol is reduced to limit the time in which people can purchase alcohol. The recommendation would be not allowing bottle stores to open until 10am, closing at 8pm. By opening at 10am, it limits the time that people can purchase high percentage alcohol drinks, reducing the availability. It also means that they are not preparing to open when schools are starting for

the day. It is hopeful that this would also transpire to Supermarkets to also reduce accessibility and availability. Alcohol Healthwatch (2022) also suggest that off-licences close/do not sell any alcohol between 3pm and 4pm to limit exposure to school aged children. An example of high availability would be Liquor King, King Street, Whakatāne. This is located within 200m of a high school, is on a very busy intersection and adjacent to a funeral home. Te Tohu O Te Ora O Ngāti Awa in partnership with Ara Poutama Aotearoa, New Zealand Police and Whakatāne District Council facilitate an impaired Drivers Programme. This is a two-day marae based wānanga for those who have been convicted for driving under the influence of alcohol and/or drugs with the aim of reducing re-offending. As part of this wānanga, day two starts at Willetts Funeral Services, King Street, Whakatāne. As the group is gathering getting ready to enter the funeral home to discuss the impacts of alcohol and decision making, the open signs of this liquor store are being put out at 9am.

### **3. List of sensitive sites and proximity to these sites**

The current Eastern Bay of Plenty Local Alcohol Policy only lists three sensitive locations – primary or secondary education establishment, childcare centre, or children’s playground. A questionnaire was completed by current clients of Te Tohu O Te Ora O Ngāti Awa who are currently engaged with alcohol and drug counselling. A question was asked about how they feel about alcohol being sold within 100m of the locations where it is identified that vulnerable people may frequent and/or congregate such as medical centres, places of worship and children’s playgrounds. 92% (12 out of 13) did not support alcohol outlets within 100m of those locations. One client stated, “challenge the systems that allows this to happen...” and another “...there is no need for this – safety first – allow children a clean space to grow up not influenced by stupid behaviours.”

To protect vulnerable members of our community it is recommended that when new licences (off and on) are being considered this list is extended to the following should they fall within 100m:

- Medical centres
- Pharmacies
- Places of worship
- Food banks
- Park/recreational reserve
- Swimming pools
- Children’s clubs i.e., gymnastics
- Marae
- Cemetery/urupā

### **4. Density of venue locations**

Kopeopeo has five alcohol outlets – three off-licences (Super Liquor (x2), Pak ‘NSave) and two on-licence (Kope Indian Restaurant, The Turf Bar) within a 400 metre stretch of road. If you place a 400 radius of that area, there is one high school, one primary school, The Salvation Army Church and Store, two

laundromats, two chemists, a medical centre/wellbeing hub, bank, St Vincent De Paul Op shop – all locations where a large amount of vulnerable people will visit daily. That part of King Street, Kopeopeo is also a main arterial route to get to Whakatāne Hospital which also has a mental health unit.

The empty site on the corner of King Street, Whakatāne and Stewart Street, Whakatāne is owned by Kainga Ora. It was proposed that this will become a social housing development. This is adjacent to a Super Liquor outlet. Many of the people that will occupy the space will be young families.

It is recommended that there are to be no more liquor licences granted in the Kopeopeo suburb to reduce accessibility and availability of alcohol in an area of lower socioeconomics, high foot traffic and proximity to identified vulnerable locations.

#### **5. Single sales of alcohol / any other discretionary condition**

- It is recommended that the single sales of alcohol are prohibited except for boutique and handcrafted beer and cider unless the volume exceeds 445ml (Case for Change, n.d.). The single sales of alcohol are more likely to be purchased by heavy drinkers, adolescents, and young adults. By reducing the availability of single sales, you are reducing the accessibility of alcohol to the vulnerable groups that type of marketing targets.
- It is recommended that a condition is included whereby local iwi and hapu are involved in the decision making when granting a liquor licence. This will give the opportunity for our community to have a voice and align with Te Tiriti o Waitangi.
- We are aware that the Opotiki community have voiced that they would like to see the prohibition of alcohol sales during Matariki. This is supported as it should be across the Eastern Bay of Plenty District to ensure consistency in policies and Kaupapa.

In summary, alcohol is a major contributing factor to dishonesty and violence related offending. There is great value in allowing the community to have a say in how, when and where alcohol is sold. It allows them to have the ability to challenge current alcohol habits and mitigate harm to their community and whānau. It is recommended that the local Council maintain a Local Alcohol Policy and implement restrictions that reduce the accessibility and availability of alcohol to not only our youth but our community.

#### **Reference List**

Action Point (n.d.) *Case for Change*. (n.d.)

[https://www.actionpoint.org.nz/local\\_alcohol\\_policy\\_case\\_for\\_change](https://www.actionpoint.org.nz/local_alcohol_policy_case_for_change)

Alcohol Healthwatch (2022). *Alcohol Healthwatch > Issues & Resources > Local Government Policies & Strategies > Local Alcohol Policies*. <https://www.ahw.org.nz/Issues-Resources/Local-Government-Policies-Strategies/Local-Alcohol-Policies>

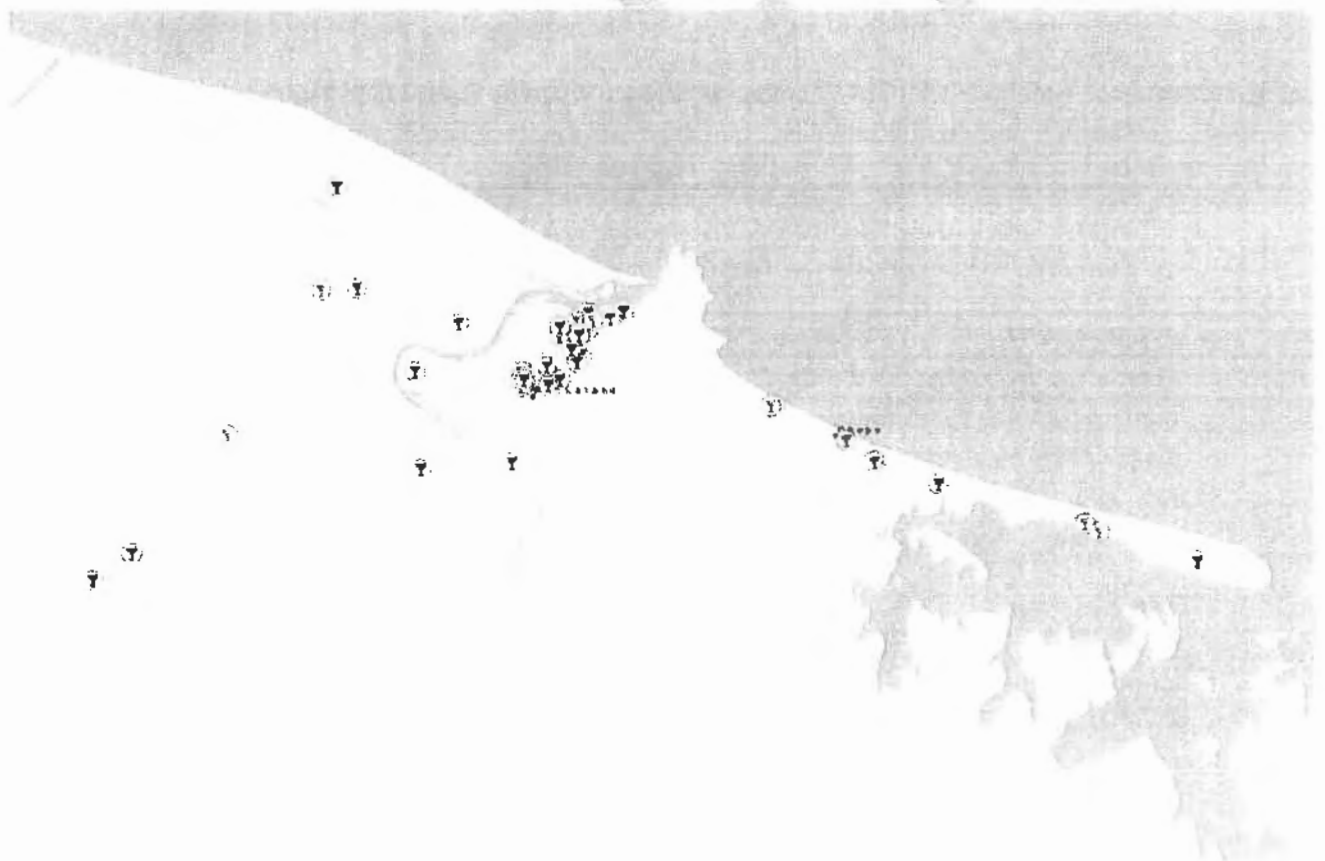
New Zealand Drug Foundation (2022). *A stocktake of how New Zealand is dealing with drug use and drug harm*. <https://www.drugfoundation.org.nz/assets/uploads/2022/State-of-the-Nation-2022/State-of-the-Nation-2022-wed.pdf>

Whakatāne District Council (n.d.) *Eastern Bay of Plenty Provisional Local Alcohol Policy*. [https://www.Whakatāne.govt.nz/sites/www.Whakatāne.govt.nz/files/documents/contact-us/have-your-say/eastern-bay-of-plenty-draft-local-alcohol-policy/ebop\\_provisional\\_lap.pdf](https://www.Whakatāne.govt.nz/sites/www.Whakatāne.govt.nz/files/documents/contact-us/have-your-say/eastern-bay-of-plenty-draft-local-alcohol-policy/ebop_provisional_lap.pdf)

## Appendix 8

Whakatāne District- Existing Licence Maps (as of July 2022)

### Whakatāne/ Ōhope



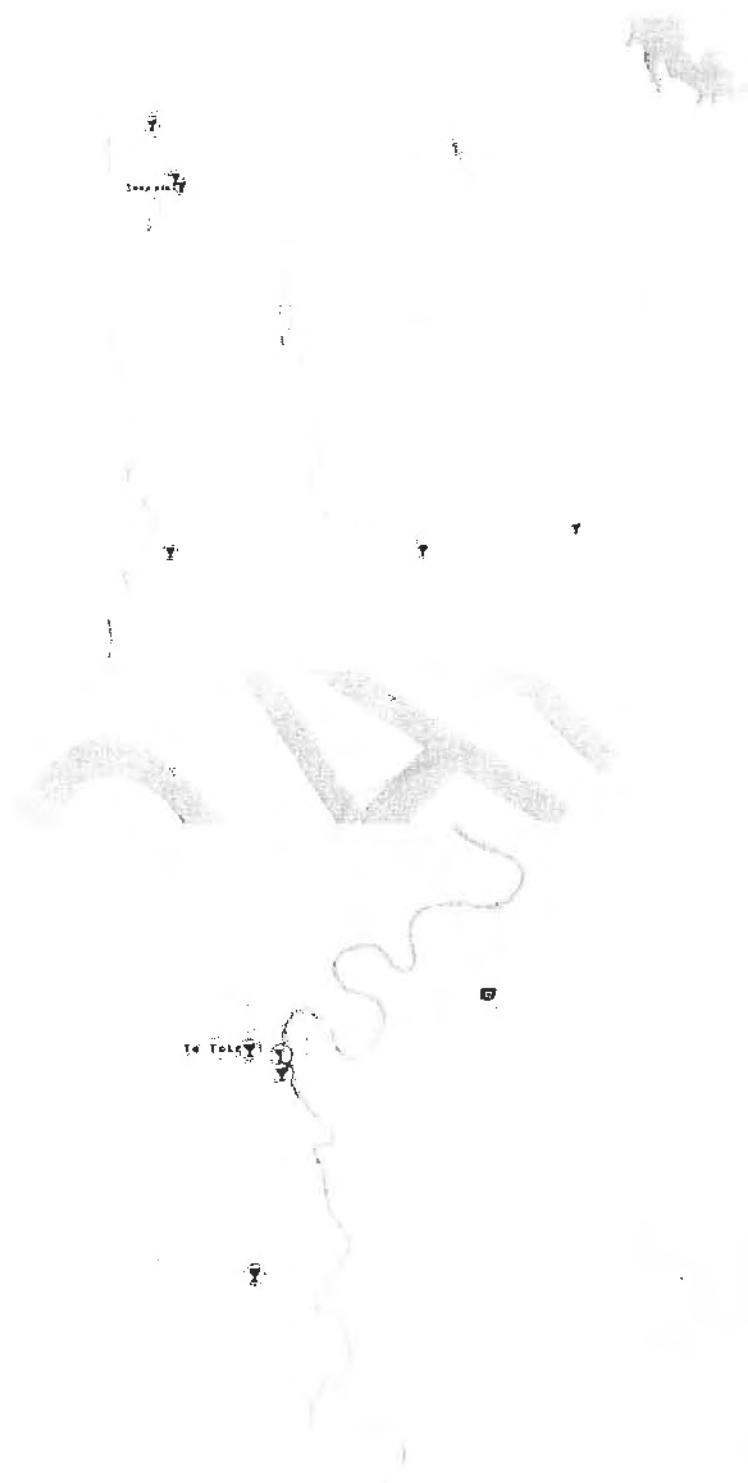


**Murupara**

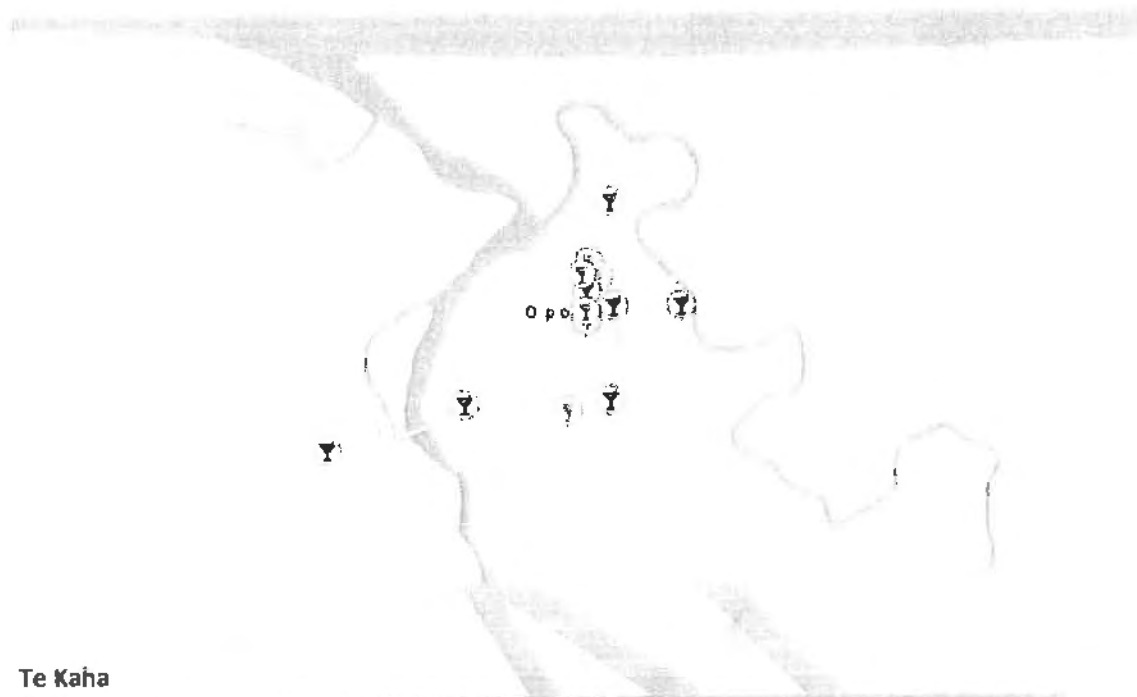


**Tāneatua**

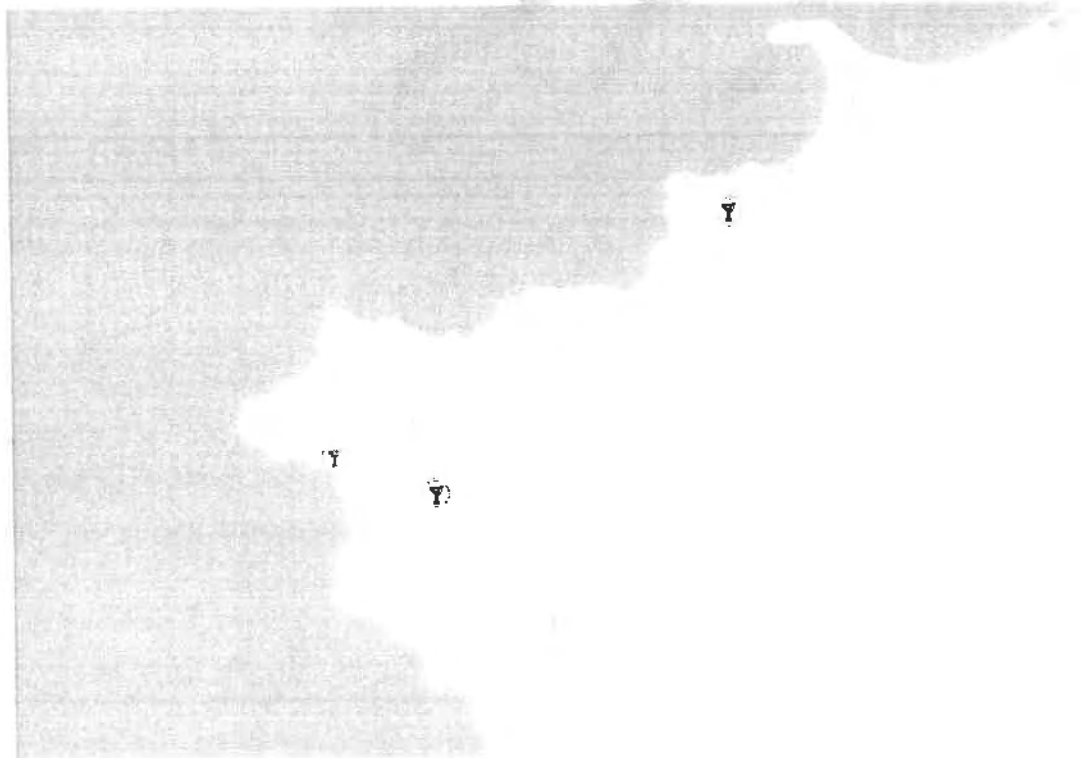
**Te Teko**



Ōpōtiki District  
Ōpōtiki

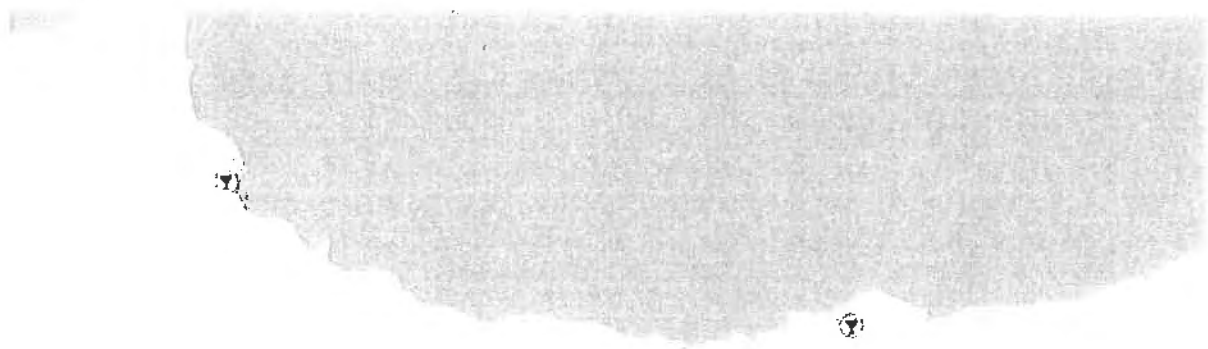


Te Kaha





**Waihou Bay**



**Kawerau District**





## Draft Eastern Bay of Plenty Local Alcohol Policy

### Statement of Proposal



## Introduction

The Eastern Bay of Plenty District Councils (Whakatāne, Ōpōtiki, and Kawerau) are reviewing the joint Eastern Bay of Plenty Local Alcohol Policy that came into effect in 2016. This Statement of Proposal is pursuant to Sections 83, 86 and 156 of the Local Government Act 2002 and outlines the changes that are being proposed, along with how you can have your say on the draft policy.

Local Alcohol Policies (LAP) are not mandatory. The Sale and Supply of Alcohol Act 2012 (the Act) allows councils to develop LAPs for their territorial areas. Once a LAP is in place, the local District Licensing Committee must have regard to the LAP when making decisions on licence applications. Without a LAP, the default provisions in the Act would apply.

The Act sets out the requirements and process for Local Alcohol Policies. LAPS can include policies on any or all of the following matters relating to licensing (and no others):

- location of licensed premises by reference to broad areas;
- location of licensed premises by reference to proximity to premises of a particular kind or kinds;
- location of licensed premises by reference to proximity to facilities of a particular kind or kinds;
- whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district;
- maximum trading hours;
- the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions;
- one-way door restrictions.

## About the draft Local Alcohol Policy

The draft Local Alcohol Policy (LAP) aims to minimise alcohol-related harm and to set requirements for licensing that are aligned with community views and address local issues. The vision of the draft LAP is *"to support the object of the Sale and Supply of Alcohol Act 2012 and contribute to the safety and health of the communities in the Eastern Bay of Plenty"*.

The objects of the Act are stated as:

- a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly;  
and
- b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

The overall objective of the LAP review has been to strengthen and align the LAP to the Act, reduce alcohol related harm, and reflect community feedback.

## Research Report

A research paper was developed to inform the 2022/23 review of the Local Alcohol Policy. The research paper focused on current number of licences, the demography of residents, overall health indicators and alcohol related issues in the districts.

The report also includes information gathered through stakeholder engagement with Police, the Medical Officer of Health and Licensing Inspectors. The full Research Report is available online.

A summary of key points are below:

- High deprivation across all three districts puts our region at a higher risk of harm relating to alcohol.
- Data provided by the Bay of Plenty District Health Board has shown that a large proportion of hospital admissions in the region are related to alcohol consumption, with numbers higher than the national average for Opōtiki and Kawerau districts.
- Feedback provided from stakeholders indicates that there is great potential and support to strengthen the provisions of the current LAP. This includes placing tighter restrictions for on-licence hours and venue density.
- In 2021, approximately 12% of all recorded offences recorded alcohol as a contributing factor. Violent offences made up the highest proportion of alcohol-related offending in the Eastern Bay of Plenty (EBOP) being 25% and 24% respectively in 2020 and 2021. Drug and anti-social offences made up the next highest proportion of alcohol-related offending with 20% and 21% respectively in 2020 and 2021.
- In 2020 and 2021, 25% of family violence incidents and offences flagged alcohol as a contributing factor.
- In the Eastern Bay of Plenty, over the last five years, alcohol was a contributing factor in a large number of serious injury and fatal crashes, increasing from 24% of crashes in 2017 to 50% in 2021. Alcohol as a contributing factor in minor and non-injury crashes has increased from 9% of crashes in 2017 to 23% in 2021.
- Residents in the EBOP largely support the reduction of the number of venues that sell alcohol and note that this would improve the safety of their communities.

## Summary of draft changes to the LAP

1. The policy has been condensed and wording has been simplified where possible to provide clarity to applicants and the District Licensing Committee, and to remove reference to requirements which are already set out in the Act.
2. Objectives have been included to clearly provide the Councils' position and aims for each of the districts.
3. The draft policy has been developed to align provisions across all three districts, with no differences between each district included.
4. Any application for a new on or off licence must be for a premise located in a zone designed for commercial or business activities under the relevant District Plan, unless resource consent is granted.

5. Trading hours are proposed to be aligned across all three districts as follows:  
Off-licences: 9am – 10pm (Supermarkets 8am-10pm)  
On-licences: 9am – 12pm  
Club licences: 9am - 12pm  
Special licences: case by case
6. The definition of sensitive sites has been extended to include primary and secondary schools, childcare facilities, children's playgrounds, places of worship, marae, and medical centres.
7. Provision around new licences and proximity to sensitive sites has been reworded to better reflect and align with District Plans and provided the District Licensing Committee better discretion on applications near sensitive sites.
8. Example discretionary conditions applicable to each licence type have been included to provide more visibility as to what can be imposed.

### **How can I have my say on the policy?**

The consultation period for the Local Alcohol Policy review will begin on Monday 27<sup>th</sup> March and conclude at 5pm on Friday 28<sup>th</sup> April. This is your opportunity to let us know what you think of the draft Local Alcohol Policy, and we encourage all feedback.

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### **You can:**

- Read further information and submit using our online consultation portal
- Email your submission to your Council listed below
- Submission forms and hard copies of this statement of proposal and the draft policy are available at all District Council offices. If you have any questions about this proposal or about how to make a submission, please contact us using the details below:

#### **Whakatāne:**

4 Commerce Street, Whakatāne  
07 306 0500  
submissions@whakatane.govt.nz

#### **Ōpōtiki:**

108 St John Street, Ōpōtiki  
07 315 3030  
info@odc.govt.nz

#### **Kawerau:**

2 Ranfurly Court, Kawerau  
07 306 9009  
office@kaweraudc.govt.nz

### **Privacy Act information**

The Local Government Act requires submissions to be made available to the public. All submissions will be provided to the three Eastern Bay of Plenty District Councils and will include your name. If you would like to keep your submission confidential, you will need to inform us when you provide your submission.

### **What happens next?**

Following the closing of the submission period at 5pm, Friday 28<sup>th</sup> April 2023, all submissions will be provided to a panel comprising members of the three councils for consideration and verbal submissions will be heard. This meeting will be open to submitters and the public to attend in person or via video link if requested.

The panel will then deliberate on the draft policy and what should be included in the final LAP based on community feedback. It is anticipated that a draft policy will be adopted in late May 2023.

### **Important dates to remember:**

Submissions open – 8am, Monday 27<sup>th</sup> March 2023

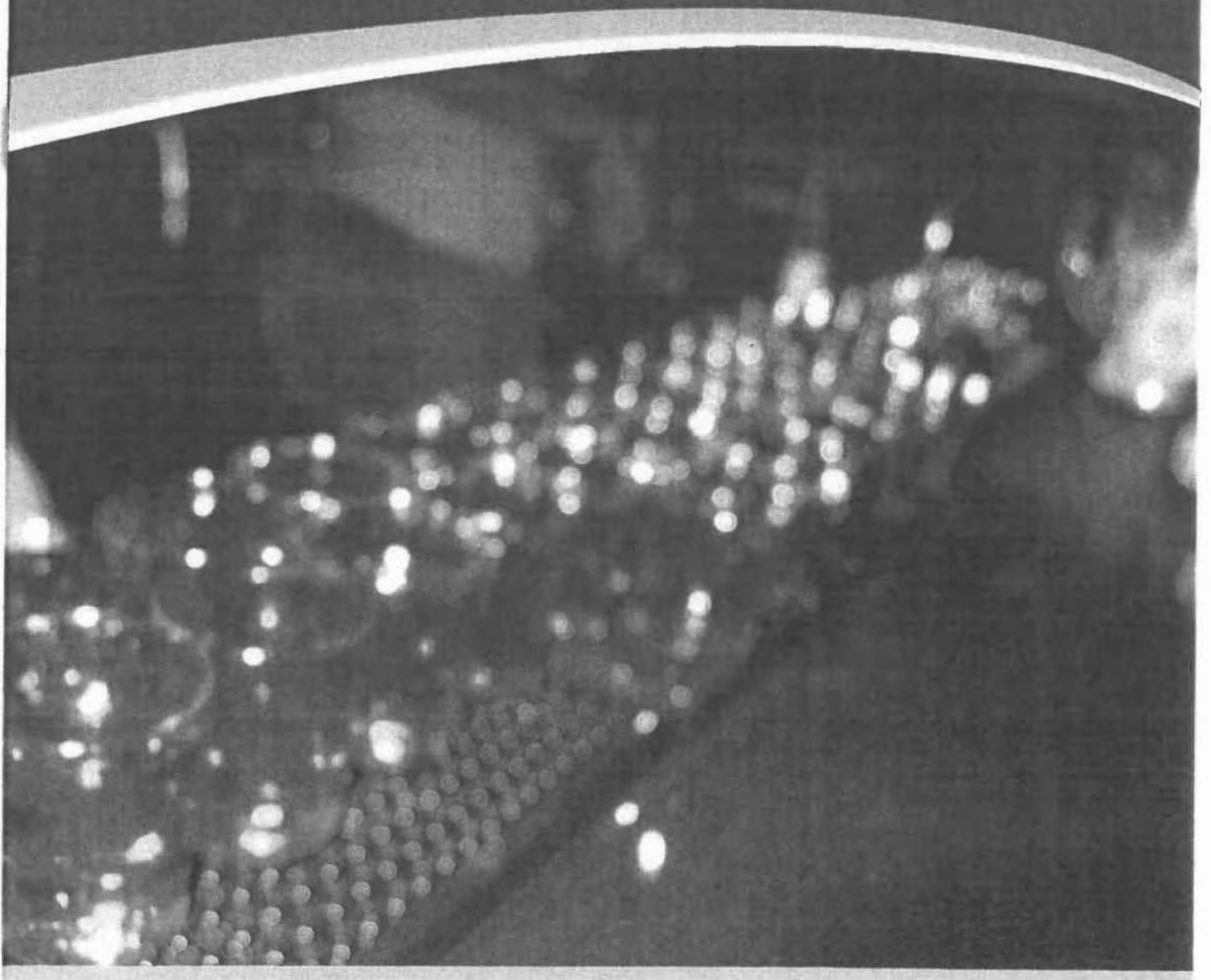
Submissions close – 5pm, Friday 28<sup>th</sup> April 2023

Hearing of submissions and deliberations – To be confirmed





# EASTERN BAY OF PLENTY LOCAL ALCOHOL POLICY



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## **1. INTRODUCTION**

This is the joint Local Alcohol Policy of the Kawerau, Ōpotiki and Whakatāne District Councils. It comes into effect on [date]. The policy applies to any licensing application made to a District Licensing Committee in the Eastern Bay of Plenty region.

The Sale and Supply of Alcohol Act 2012 (The Act) allows each territorial authority to develop a local alcohol policy (LAP) for the sale, supply and consumption of alcohol in its district. A LAP must be developed in consultation with local communities and key regulatory bodies such as the Police, licensing inspectors and Medical Officers of Health. It may have different conditions for different areas within a district.

A LAP provides the policy framework for licensing decisions to meet the object of the Act and the needs and views of communities. Additionally, a LAP has legal standing under the Act. For example:

- Licensing bodies must have regard to the applicable LAP in decisions about licence applications
- Any maximum trading hours and one way door restrictions in a LAP must be complied with, and
- Being contrary to a LAP is grounds for a licence application to be refused.

### **1.1 The Sale and Supply of Alcohol Act 2012**

The object of the Act is that:

1. The sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.
2. For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—
  - a. any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
  - b. any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).

### **1.2 District Licensing Committees**

A District Licensing Committee is the committee(s) appointed by a territorial authority to deal with licensing matters for its district. Every territorial authority is required by the Act to establish one or more licensing committees. The functions of a District Licensing Committee (DLC) are:

- To consider and determine licence applications, renewals, variations, suspensions and cancellations
- To consider and determine new applications and renewals of manager's certificates
- To consider and determine applications for temporary authority
- To conduct inquiries and make reports to the licensing authority; and
- With the leave of licensing authority, to refer applications to the licensing authority.

Each DLC consists of three members appointed by a territorial authority for its district. The chairperson must be either an elected member of the Council or a Commissioner; and the two other members are appointed from a list of members established and maintained by the territorial authority. Two or more territorial authorities may have a combined list of DLC members.

### **1.3 Alcohol Regulatory Licensing Authority**

The Alcohol Regulatory and Licensing Authority is the national body formerly known as the Liquor Licensing Authority. The functions of the authority are:

- To consider all applications referred to it by the DLC which it has given leave to be referred
- To consider and determine appeals from decisions of a DLC
- To consider and determine appeals against elements of draft local alcohol policies, and
- To consider and determine applications by inspectors and the Police for the variation, suspension or cancellation of licences and manager's certificates.

In addition, the Authority may issue practice directions for the guidance of District Licensing Committees that it considers are necessary or desirable.

### **1.4 Police, Medical Officers of Health and Inspectors**

The Licensing Committee, through its inspectors, administers alcohol licensing duties in conjunction with the Police and Medical Officers of Health and to a lesser extent with the Fire Service. The Police report generally on matters of suitability of applicants for licences and Manager's certificates. The Medical Officer of Health reports generally on the issue of public health and alcohol. Inspectors must act independently and report generally on the criteria for licences and manager's certificates to be considered by the Committee. All three monitor licensee compliance with the Act and their licences. Licensing inspectors, Police and Medical Officers of Health have a duty to collaborate and work together. Only the Police and the inspector may bring enforcement proceedings. The Fire Service has the right to seek a suspension of licence in the event of any failure to comply with an evacuation scheme under the Fire Service Act 1975.

### **1.5 Working with Stakeholders**

The Kawerau, Ōpōtiki and Whakatāne District Councils consider that the harm caused by excessive or inappropriate alcohol use in the Eastern Bay of Plenty region can only be minimised with the involvement of all stakeholders. As well as the three territorial authorities, District Licensing Committees and other regulatory bodies, stakeholders include central government, industry representatives, licensees, licensee patrons and the wider community.

## **2. POLICY OBJECTIVE**

The objective of this policy is to foster positive, responsible drinking behaviour and minimise alcohol-related harm in the Eastern Bay of Plenty region by:

1. Providing clarity for applicants and a framework for the District Licensing Committee when deciding on licensing applications in relation to:
  - The location of licensed premises
  - Whether further licences, or licences of a particular kind(s) should be issued
  - Maximum trading hours
  - One way door restrictions
  - Particular conditions
  - Discretionary conditions.
2. Enabling community views to be considered in decisions about the number and type of licensed premises and licence conditions imposed.
3. Informing applicants, regulatory bodies, the licensing authority, industry stakeholders and the wider community about the Councils' stance toward licensing matters.
4. Providing an efficient regulatory framework that is integrated with the District Plan and consents process.

## **3. POLICY APPROACH**

This policy aims to reduce alcohol related harm across the three districts, while balancing the economic benefits the alcohol industry provides the Eastern Bay of Plenty.

It does this by:

1. Not prescribing the number, type and density of licensed premises in restrictive measures, such as capping the density of licensed premises in particular areas; while,
2. Relying substantially on a requirement for licensed premises to develop and implement host responsibility policies, and on the provisions of the Act for amenity and good order (section 106) and consideration of neighbouring land uses (section 110(3)).

## **4. POLICY PRINCIPLES**

When using this policy, the following principles must be taken into account:

1. All District Licensing Committee considerations should have regard to the needs and views of local communities.
2. All District Licensing Committee processes regulating the sale and supply of alcohol should be transparent, consistent and objective.
3. All District Licensing Committee actions should promote the object and be consistent with the provisions of the Sale and Supply of Alcohol Act 2012.
4. All District Licensing Committee decisions will be based on evidence and will be considered objectively.

## 5. DEFINITIONS

**Alcohol** means a substance that is or contains a fermented, distilled, or spirituous liquor, which; in whatever form (such as frozen liquid, or a mixture of a frozen liquid and another substance or substances,) is found on analysis to contain 1.15% or more ethanol by weight, in a form that can be consumed by people.

**Alcohol-related harm** means—

(a) the harm caused by the excessive or inappropriate consumption of alcohol; and

(b) includes—

(i) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and

(ii) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in subparagraph (i).

**Amenity and good order of the locality**, in relation to a licensing application, means the extent to which, and ways in which, the locality in which the premises concerned are situated (or, in the case of a conveyance, the localities where the conveyance is likely to travel) are pleasant and agreeable. This includes any building(s), immediate surroundings and any associated carpark on the premises. It does not refer to adjoining public thoroughfares.

**Authorised customer** in relation to premises a club licence is held for, means a person who—

(a) is a member of the club concerned; or

(b) is on the premises at the invitation of, and is accompanied by, a member of the club concerned; or

(c) is an authorised visitor.

**Authorised visitor** in relation to premises a club licence is held for, means a member of some other club with which the club concerned has an arrangement for reciprocal visiting rights for members.

**Childcare centre** means a licensed and/or chartered early childhood centre which offers either all day or part day teacher-led services. They include church, workplace and childcare centres and can be run by either community or private owners.

**Children's playground** means an area of land on a reserve, such as a public children's play area and containing permanent children's play equipment or facilities.

**Eastern Bay of Plenty region** means the area comprised of the Kawerau District, the Ōpotiki District and the Whakatāne District, as identified in the Local Government Act 2002.

**Exempt person** means any person as defined as exempt in the Sale and Supply of Alcohol Act 2012.

**Licensing Authority** means the Alcohol Regulatory and Licensing Authority continued in existence by section 169(1) of the Act.

**Member** in relation to a club, means a person who—

(a) has expressly agreed in writing to comply with the club's rules; and

(b) is recognised as a member of the club by those rules.

**Minibar** means a small refrigerator in a hotel room that is stocked with alcoholic and non-alcoholic beverages and snacks for guests.

**Prohibited person** means any person who is a minor or who is intoxicated.

**Reserve** means any area of land designated under the Reserves Act or zoned under the applicable District Plan.

**Sensitive Location** includes any location in close proximity (situated within 100 metre radius) to any:-

- Primary or secondary education establishment
- Childcare centre, or
- Children's playground.

## **6. POLICY STATEMENT**

### **6.1 Application and Scope**

This policy applies to any licensing application made to a District Licensing Committee in the Eastern Bay of Plenty region after the effective date of 18 March 2016..

#### **6.1.1 Transitional provisions**

The provisions of this policy relating to maximum trading hours do not come into effect until three months after the policy comes into effect.

#### **6.1.2 Exceptions**

Any application for a new licence or licence renewal for any premises which had a current licence at the date this policy came into effect is exempt from the provisions of this policy relating to the location of licensed premises (clause 6.2.5). The exemption remains in force for as long as the premises remains continuously licensed and will cease to exist when the current licence or any subsequent licence for the premises is surrendered or not renewed.

#### **6.1.3 Relationship to the Act**

This policy does not include all the provisions that may apply to licence applications and should therefore be read in conjunction with the Act, which contains a number of additional provisions such as manager's certificates, application processes and restrictions for supermarkets and dairies.



## 6.2 General Provisions for Applications for Licensed Premises

### 6.2.1 *Criteria for issue of licences*

In deciding whether to issue a licence the Committee will have regard to the following matters provided in section 105 of the Act:

- (a) the object of the Act
- (b) the suitability of the applicant
- (c) the local alcohol policy
- (d) the days on which and the hours during which the applicant proposes to sell alcohol
- (e) the design and layout of any proposed premises
- (f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods
- (g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services
- (h) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence
- (i) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—
  - (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
  - (ii) it is nevertheless desirable not to issue any further licences
- (j) whether the applicant has appropriate systems, staff, and training to comply with the law
- (k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103

The provisions of section 28 of the Act relating to who can hold on-licences, off-licences and special licences also apply.

The Committee will also have regard to:

- Whether the premises has a current fire evacuation scheme
- Any objections to the application

The Committee will not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

### **6.2.2 Criteria for renewal of licences**

Applications for licence renewals should be received at least 20 working days before expiry of the current licence. When considering applications, the Committee will have regard to:

- The criteria contained in section 131(1) of the Act
- The management history of the applicant
- The adequacy and implementation of the host responsibility policy for the premises
- Any objections to the renewal

The Committee will not take into account any prejudicial effect that the renewal of the licence may have on the business conducted pursuant to any other licence.

### **6.2.3 Objection to licensing application**

Any person with a greater interest in any application than the public generally may object to the grant or the renewal of a licence. An objection must be in writing and must be filed within 15 working days after the first publication of the public notice advertising the application. The objection may only relate to the statutory criteria for the issue or renewal of a licence, as set out in 6.2.1 or 6.2.2 above.

### **6.2.4 Maximum trading hours**

The applicable maximum trading hours for licensed premises in the Eastern Bay of Plenty region are as shown in the First Schedule to this Policy.

Note that these are the maximum hours and this does not preclude a licence being issued subject to a condition or conditions to the effect that some more restrictive maximum trading hours must be observed.

### **6.2.5 Location**

#### **Broad areas**

The Committee may grant an on, off or club licence for any premises located in any zone where the sale and supply of alcohol is a permitted activity under the relevant District Plan. Applications will not be considered in other areas unless a resource consent has been granted.

#### **Proximity to particular kinds of premises or facilities**

The Committee may, at its discretion, grant an on, off or club licence for any premises in any Sensitive Location where the applicant can demonstrate to the satisfaction of the Committee that no significant adverse effects will arise from the premises being situated within a Sensitive Location.

### **6.2.6 Host responsibility**

Host responsibility aims to reduce the incidence of intoxication and the risk of intoxicated individuals causing harm to themselves, to other people, or to property. It utilises a number of strategies aimed at creating safe drinking environments.

The Eastern Bay of Plenty District Councils consider that host responsibility is consistent with the object of the Act, fundamental to achieving the objective of this policy, and necessary to give effect to sections 51 – 54 of the Act. All licensed premises are therefore required to have written, operative host responsibility policies.

### **6.2.7 Amenity and good order**

In forming an opinion about whether the issue or renewal of a licence would affect the amenity and good order of a locality, the Committee will have regard to the matters contained in section 106 of the Act and any measures contained in the applicant's host responsibility policy to ensure that:

- the premises will be kept in a safe, clean and tidy order
- noise levels will be maintained within acceptable levels set by the applicable District Plan
- nuisance effects will be mitigated, and
- vandalism, including graffiti and litter will be removed.

### **6.2.8 Temporary authority**

A temporary authority is an order issued by the Committee authorising the applicant (or some suitable person nominated by the applicants) to carry on the sale and supply of alcohol for a period, not exceeding three months, stated in the order.

The Committee can only issue a temporary authority in relation to a premises which has a current licence. A further temporary authority application that is not accompanied by a full on-licence or off licence application for the premises will only be considered in exceptional circumstances.

## **6.3 On-licence Provisions**

An on-licence is a licence that allows the sale and supply of alcohol on a premises for consumption on the premises. The Committee may grant on-licences for any premises that comply with the applicable provisions of the Act and this policy.

### **6.3.1 Compulsory on-licence conditions**

The compulsory conditions set out in section 110(2) of the Act are required to be included in all on-licences. The conditions relate to:

- The days and hours during which alcohol may be sold and supplied
- Any variation of fees made subject to relevant regulations
- Where on the premises free drinking water is to be available to customers.

Under section 110(3) of the Act, in deciding the days and hours during which alcohol may be sold and supplied, the Committee may have regard to the site of the premises in relation to neighbouring land use.

### **6.3.2 Host responsibility policy**

Every on-licence premises must develop a host responsibility policy containing provisions to encourage and actively inform staff and patrons about the following:

- The availability of non-alcoholic drinks and low-alcohol drinks
- Making drinking water freely available to customers
- The availability of a range of food on the premises at all times the licence is in operation
- Steps taken to ensure alcohol is not supplied to under age, intoxicated, or otherwise prohibited persons
- Undesignated, restricted and supervised areas
- Help with and information about alternative transport
- How host responsibility is promoted on the premises (e.g. by signage and staff service practices)
- Measures to protect the amenity and good order of the locality, and
- Any other matter aimed at encouraging responsible alcohol service and consumption.

Licensees are encouraged to develop individual policies rather than adopting a standard format.

### **6.3.3 Discretionary on-licence conditions**

The discretionary conditions in section 110(1) of the Act are deemed to be consistent with the objective of this policy. The Committee is encouraged to require any or all of those conditions to be included in all on-licences. The conditions relate to:

- Steps to ensure observance of the provisions of the Act relating to the sale or supply of alcohol to prohibited persons (for example, the provision of additional security staff after a particular hour, restrictions on the time and size or 'last orders' and queue management).
- Steps to be taken to ensure observance of the provisions of the Act relating to management of the premises concerned (for example, CCTV cameras, exterior lighting, minimum seating and restrictions on the use of outdoor areas after a particular time).
- People to whom alcohol may be sold or supplied (subject to the provisions of the Human Rights Act) (for example, training requirements for bar staff).

The Committee may include any other reasonable condition(s) not inconsistent with the object of the Act and the objective of this policy.

#### **6.3.4 *One way door restrictions***

This policy does not provide for a one way door restriction, however, the Committee may issue a licence that includes a one way door restriction as a condition using section 110 of the Act.

## **6.4 Off-licence Provisions**

An off-licence is a licence that allows the sale of alcohol from a premises for consumption somewhere else and the supply and consumption of alcohol samples on the premises during opening hours. The Committee may grant off-licences for any premises that comply with the Act and the applicable provisions of this policy.

### **6.4.1 Compulsory off-licence conditions**

The conditions set out in section 116(2) of the Act are required for all off-licences. The conditions relate to:

- The days and hours during which alcohol may be sold or supplied
- Any variation of fees made subject to relevant regulations
- Where on the premises free drinking water is to be available to customers while alcohol is being supplied free as a sample on the premises.

Under section 116(3) of the Act, in deciding the days and hours during which alcohol may be sold and supplied, the Committee may have regard to the site of the premises in relation to neighbouring land use.

### **6.4.2 Further compulsory condition for supermarkets and grocery stores**

The condition provided by section 112 of the Act requiring the description of one area within the premises as a permitted area for the display and promotion of alcohol is required for all off-licences for supermarkets and grocery stores.

### **6.4.3 Host responsibility policy**

Each off-licence premises must have a host responsibility policy appropriate to its particular situation. Host responsibility policies for off-licence premises would include requirements such as:

- The adequacy of measures to ensure that sales to minors or intoxicated persons do not occur
- Measures to ensure the amenity and good order of the locality are not affected by more than a minor extent
- Measures aimed at reducing alcohol abuse and alcohol-related harm, such as:-
  - The availability and promotion of non-alcoholic drinks and low-alcohol drinks
  - The availability of non-alcoholic or low alcohol cocktail recipes, and
  - The display of appropriate cautionary measures

### **6.4.4 Discretionary off-licence conditions**

The Committee is encouraged to require any or all of the discretionary conditions set out in section 116(1) of the Act, where applicable, to be included in all off-licences. The conditions relate to:

- Steps to ensure observance of the Act in relation to the sale or supply of alcohol to prohibited persons (for example, the display of safe drinking messages/material and the suitable designation of all bottle stores to ensure unaccompanied minors do not enter)
- People to whom alcohol may be sold or supplied (subject to the provisions of the Human Rights Act).

The Committee may include any other reasonable conditions not inconsistent with the object of the Act and the objective of this policy.

## **6.5 Club Licence Provisions**

A club licence is a licence that allows the sale and supply of alcohol to authorised customers for consumption on the club premises to which the licence applies. The Committee may grant club licences for any premises that comply with the applicable provisions of the Act and this policy.

### **6.5.1 Compulsory club licence conditions**

The compulsory conditions set out in section 110(2) of the Act are required to be included in club licences. The conditions relate to:

- The days and hours during which alcohol may be sold and supplied
- Any variation of fees made subject to relevant regulations
- Where on the premises free drinking water is to be available to customers.

Under section 110(3) of the Act, in deciding the days and hours during which alcohol may be sold and supplied, the Committee may have regard to the site of the premises in relation to neighbouring land use.

### **6.5.2 Host responsibility policy**

Every club licence premises must develop a host responsibility policy containing provisions to encourage and actively inform staff and patrons about the following:

- The provision of non-alcoholic and low-alcohol drinks
- Making drinking water freely available to customers
- The availability of food on the premises at all times the licence is in operation
- Steps taken to ensure alcohol is not supplied to under age, intoxicated, or otherwise prohibited persons
- Undesignated, restricted and supervised areas
- Help with and information about alternative transport
- How host responsibility is promoted on the premises (e.g. by signage and staff service practices)
- Measures to protect the amenity and good order of the locality, and
- Any other matter aimed at encouraging responsible alcohol service and consumption.

Licensees are encouraged to develop individual policies rather than adopting a standard format.

### **6.5.3 Discretionary club licence conditions**

The discretionary conditions in section 110(1) of the Act are deemed to be consistent with the objective of this policy. The Committee is encouraged to require any or all of those conditions to be included in all club licences. The conditions relate to:

- Steps to ensure observance of the provisions of the Act relating to the sale or supply of alcohol to prohibited persons (for example, the provision of additional security staff after a particular hour, restrictions on the time and size of 'last orders' and queue management).
- Steps to be taken to ensure observance of the provisions of the Act relating to management of the premises concerned (for example, CCTV cameras, exterior lighting, minimum seating and restrictions on the use of outdoor areas after a particular time).
- People to whom alcohol may be sold or supplied (subject to the provisions of the Human Rights Act).
- The requirement for a duty manager to be on the premises at all times.

The Committee may include any other reasonable conditions not inconsistent with the object of the Act and the objective of this policy.

**6.5.4 One way door restrictions**

This policy does not provide for a one way door restriction, however, the Committee may issue a licence that includes a one way door restriction as a condition using section 110 of the Act.



## **6.6 Special Licence Provisions**

A special licence is a licence that allows either:

- The sale and supply of alcohol on a premises designated by the licence, for consumption by people attending an event at the premises described in the licence; or
- The sale and supply of alcohol on a premises for which an on licence or a club licence is held, at a time when the sale of alcohol on the premises would otherwise be unlawful, for consumption by people attending an event at those premises described in the licence.

### **6.6.1 Requirement to be an 'event'**

For the purposes of a special licence, an 'event' is an occasion or closely related series of occasions that occurs within 12 months after the licence is issued.

The Committee may grant a special licence where the application relates to an event that complies with the applicable provisions of the Act and this policy.

The Committee will not grant any special licence for any event where it considers a club licence or a variation to an existing licence would be more appropriate.

### **6.6.2 Criteria for issue of special licences**

In deciding whether to issue a special licence, the Committee will have regard to the matters set out in section 144 of the Act as listed in clause 6.2.1 (a) – (c), (h) and (j) of policy and the following:

- (a) the nature of the particular event for which the licence is sought and, in particular,—
  - (i) whether the applicant is engaged in, or proposes at the event to engage the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods; and
  - (ii) whether the applicant is engaged in, or proposes at the event to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:
- (b) the days on which and the hours during which the applicant proposes to sell alcohol
- (c) the design and layout of the premises concerned
- (d) any areas of the premises that the applicant proposes should be designated as restricted areas or supervised areas
- (e) any steps the applicant proposes to take to ensure that the requirements of this Act in relation to the sale and supply of alcohol to prohibited persons are observed
- (f) the applicant's proposals relating to—
  - (i) the sale and supply of non-alcoholic drinks and food; and
  - (ii) the sale and supply of low-alcohol drinks; and
  - (iii) the provision of help with or information about alternative forms of transport from the premises:

The licensing committee must not take into account any prejudicial effect that the issue of the special licence may have on the business conducted pursuant to any other licence.

### **6.6.3 Compulsory special licence conditions**

The compulsory conditions set out in section 147 of the Act are required to be included in special licences. The conditions relate to:

- The days and hours during which alcohol may be sold or delivered
- Place(s) on the premises at which drinking water is to be freely available while the event is taking place

Under section 147(4) of the Act, in deciding the days and hours during which alcohol may be sold and supplied, the Committee may have regard to the site of the premises in relation to neighbouring land use.

### **6.6.4 Host responsibility**

To reflect the Eastern Bay of Plenty District Councils' commitment to host responsibility, the Committee will have particular regard to sections 147 (1) (d) – (g) of the Act relating to the provision of food, non-alcoholic drinks and low-alcohol drinks and assistance or information about alternative transport, and section 142(1)(e) relating to amenity and good order, when considering special licence applications.

### **6.6.5 Discretionary special licence conditions**

The discretionary conditions in section 147 of the Act are deemed to be consistent with the objectives of this policy. The Committee is encouraged to require any or all of those conditions to be included in special licences. The conditions relate to:

- Steps to ensure observance of the provisions of the Act relating to the sale or supply of alcohol to prohibited persons
- People to whom alcohol may be sold or supplied (subject to the provisions of the Human Rights Act)
- For premises where the principal business is not the manufacture or sale of alcohol, the kind or kinds of alcohol that may be sold or delivered on or from the premises
- The provision of food for consumption and the availability of low alcohol and non-alcoholic beverages
- Assistance or information about alternative forms of transport from the premises
- Excluding the public from the premises concerned
- The sale and supply of alcohol on the premises in containers of certain descriptions
- Filing of returns relating to alcohol sold pursuant to the licence.

The Committee may include other conditions in sections 110 and 116 of the Act, and any other reasonable condition(s) not inconsistent with the object of the Act and the objective of this policy.

### **6.6.6 Suitability of the venue**

In considering whether to grant a special licence, the Committee may request a report from the NZ Fire Service about the suitability of the venue where the event is to be held.

## **7. POLICY REVIEW**

The three territorial authorities will monitor the policy to ensure it is operating to full effect.

An evaluation will be conducted 18 months after the policy comes into effect. If the evaluation results in an assessment that changes may be needed, the policy will be reviewed.

If the evaluation does not indicate the need for any changes, a review will be initiated in 2019.

## **8. REFERENCES AND RELEVANT LEGISLATION**

Sale and Supply of Alcohol Act 2012

Building Act 2004

Food Act 1981 and Food Hygiene Regulations 1974

Resource Management Act 1991

District plans in the Eastern BOP region: Kawerau, Ōpotiki and Whakatāne

Human Rights Act 1993

## FIRST SCHEDULE: Maximum Trading Hours

The maximum trading hours that apply in each District are as shown in the table below.

**Table 2: Maximum trading hours by licence type and district**

	<b>Kawerau</b>	<b>Ōpotiki</b>	<b>Whakatāne</b>
	hours	hours	hours
<b>On-licence</b>	0900 - 0100	0900 - 0100	0800 - 0200 0800 - 2300 (Winery)
<b>Off-licence</b>	0800 - 2200	0700 - 2200	0700 - 2300
<b>Club Licence</b>	0900 - 0100	1000 - 0100	0700 - 0200 0700 - midnight (Sports club)
<b>Special Licence</b>	Case by case	Case by case	Case by case

### Notes:

- The hours set out in Table 2 are the maximum hours and the Committee may issue any licence subject to more restrictive trading hours.
- Minibars are exempt from the above maximum trading hours and can operate 24 hours a day, 7 days a week.