

## Central Hawke's Bay District Council – Report

**TO:** Council  
**FROM:** Corporate Services Manager  
**DATE:** March 2009  
**FILE REF:** COU1-801  
**SUBJECT:** **CONTINUED REVIEW OF COUNCIL POLICY MANUAL**

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### 1.0 SUMMARY

Section 80 of the Local Government Act 2002 requires Local Authorities to identify whether any decision they are about to make is significantly inconsistent with any existing Policies and Plans.

Failure to meet this requirement would make any decision ultra vires.

It is therefore important to have a centralised Policy Register.

The existing Policy Manual has been reviewed in workshop sessions and updates were approved by Council in December 2008.

In a continuation of this exercise, Council are now asked to formally consider the revised policies listed below, including a new policy - 2.10 Sale of Liquor Policy.

### 2.0 RECOMMENDATION

#### *THAT*

Council adopt the following Policies:

- 1. COMMUNITY LEADERSHIP GROUP**
  - 1.9 Maori Consultative Committee Policy
  
- 2. PLANNING AND REGULATORY GROUP**
  - 2.10 Sale of Liquor Policy
  
- 7. CORPORATE POLICIES**
  - 7.1 General Funding Policy
  - 7.18 Rating System Policy

– subject to any adjustments required and any typographical or presentation corrections.

#### *REASON*

To ensure that the requirements of the LGA 2002 are met.

### 3.0 BACKGROUND

Council reviewed the existing Policy Manual at a workshop in October 2008, and required specific Policies to be either removed, updated or continued. The majority of these revised Policies were then adopted at a Council meeting in December 2008.

This is an ongoing process with a number of Policies - including those Policies which will form part of the 2009/19 LTCCP, to be put before Council for review, update and approval from time to time.

The policies listed below, with the exception of policy 2.10 Sale of Liquor Policy, were reviewed by Council at a workshop in January 2009, and Council are now asked to formally adopt these policies.

Policy 2.10 is new and on adoption will be added to Council's Policy Manual.

The policies that are required to be included in Council's LTCCP, have been reviewed in a workshop session and will form part of the final updated 2009/19 LTCCP when adopted in June 2009 following formal consultation.

### 4.0 OPTIONS

#### Option 1

That Council adopt the following Policies:

- 1. COMMUNITY LEADERSHIP GROUP**
  - 1.9 Maori Consultative Committee Policy
- 2. PLANNING AND REGULATORY GROUP**
  - 2.10 Sale of Liquor Policy
- 7. CORPORATE POLICIES**
  - 7.1 General Funding Policy
  - 7.18 Rating System Policy

– subject to any adjustments required and any typographical or presentation corrections.

### 5.0 STATUTORY IMPLICATIONS

Mainly the Local Government Act 2002, but some Policies are also subject to requirements under other related legislation for Council approved Policy. Policies may also be linked to a related Council Bylaw.

### 6.0 CONSULTATION

#### 6.1 External

Nil

#### 6.2 Internal

Staff

**7.0 FINANCIAL**

N/A

**8.0 STRATEGIC LINKS**

LTCCP 2009/19

**9.0 POLICY / DELEGATION REFERENCE**

Policies as circulated.

Kevin Brown  
**Corporate Services Manager**

<b>Central Hawke's Bay District Council</b>	<b>POLICY MANUAL</b>	
	<b>Document #</b>	1.9
<b>MAORI CONSULTATIVE COMMITTEE POLICY</b>	<b>Approved by:</b>	Council
	<b>Adoption Date:</b>	26.03.09
	<b>Last Amended:</b>	29.06.06
	<b>Review Date:</b>	June 2012
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## 1. COMMITTEE MEMBERSHIP AND STANDING ORDERS

### 1.1 Membership

The Committee is to consist of up to seven (7) representatives, whose term of office shall expire at the end of the year in which the triennial local body elections are held. The Committee membership shall be determined by a process agreed between Council and the Committee.

Each member may nominate a person who can act as a proxy for the member and Council shall be advised of all nominated proxies.

If the Committee has less than seven (7) members, the Committee shall have the power to co-opt.

### 1.2 Chairperson's Ruling Final

The Chairperson may decide all questions where these standing orders make no provision or insufficient provision. The Chairperson's ruling shall be final and not open to debate.

### 1.3 Minutes of Proceedings

Minutes of all proceedings of the Committee shall be kept, and shall be circulated to the members and considered at the next meeting succeeding and, if approved by that meeting, or when amended as directed by that meeting, shall be signed by the Chairperson.

### 1.4 Minute Book

The Minute Books shall be kept by the Building Consents Administration Officer of Council and shall be open for inspection.

### 1.5 Elected Member and Council Staff Representation

No Councillors or staff are appointed to the Committee.

Council will be represented at each meeting by Her Worship the Mayor (ex-officio), the Chief Executive and the Regulatory Services Manager. Other Councillors and Officers are to attend at need.

## 2. QUORUM AT MEETINGS

No business shall be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted. The quorum shall consist of half the members if the number of members is even and a majority if the number is odd.

### **3. MEETING ALLOWANCE**

Maori Consultative Committee (MCC) members may claim \$115 per meeting for attendance of a Maori Consultative Committee meeting. Claims must be made on the 'Meeting Allowance and Mileage Reimbursement Claim' form.

### **4. MILEAGE REIMBURSEMENT**

Mileage is payable to members for attendance at every scheduled Maori Consultative Committee meeting irrespective of whether a quorum has been reached or not.

Mileage is set at the same rate as the current elected members' rate and will be paid on a monthly basis by direct credit.

Where two or more MCC members have carpooled, the car owner is only eligible to claim for mileage.

Travel for which mileage is to be claimed must be by the most direct route from the MCC member's normal place of residence to the meeting venue and return. Limited extra mileage is expected where a member has collected another member/s to bring to the meeting (i.e. car pooling).

Mileage claims must be made on the 'Meeting Allowance and Mileage Reimbursement Claim' form.

### **5. ATTENDANCE BY REPRESENTATIVE OF COMMITTEE AT COUNCIL MEETINGS**

- 5.1 The Maori Consultative Committee may nominate one member of the committee as the representative at every scheduled ordinary, special and extra-ordinary meetings of full Council and the Regulatory and Finance and Services Committees.
- 5.2 The nominated Maori Consultative Committee representative at any meeting described in 5.1 may claim \$115 per day for attendance at any of these meetings and mileage for use of personal vehicle in accordance with the current rate and system (refer to section 4.0 of this policy). Mileage claims must be made on the 'Mileage Claim' form.
- 5.3 A maximum of one meeting fee per day is payable irrespective of the number of applicable meetings that representative has attended.

<b>Central Hawke's Bay District Council</b>	<b>POLICY MANUAL</b>	
	<b>Document #</b>	2.10
<b>SALE OF LIQUOR POLICY</b>	<b>Approved by:</b>	Council
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## 1. INTRODUCTION

The object of the Sale of Liquor Act 1989 is:

*'to establish a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse so far as can be achieved by legislative means'.*

The Act goes further to require that every District Licensing Agency (DLA):

*'...shall exercise its jurisdiction, powers, and discretions under the Act in the manner that is most likely to promote the object of this Act'.*

The Central Hawke's Bay DLA has a role to play in the reduction of liquor abuse by effectively administering the provisions of the Act.

The object of this Policy is to provide a set of tools for the Agency to effectively administer the Act in a consistent and transparent manner. The Policy also seeks to inform licensees and prospective licensees of this agency's expectations.

While there is no legal requirement for a Policy under the Sale of Liquor Act 1989 a Sale of Liquor Policy allows for local conditions to be addressed by the District Licensing Agency in its decisions. Increasingly the Liquor Licensing Authority is giving greater weight to such policy documents in its decisions. The creation of this policy provides a framework for consistent DLA decisions dealing with the local liquor licensing environment.

This Policy also seeks to harmonise, where possible, the Policies of neighbouring DLA's Hastings and Napier.

## 2. POLICY PRINCIPLES

Central Hawke's Bay District Council's Mission is:

*"The Central Hawke's Bay District Council will be accountable to its citizens for the good management of the public assets of the District and provide open Local Government at minimum economic cost, with the least possible intervention in the private lives of residents."*

With this in mind the following principles have been set out to guide the development and administration of the Liquor Policy:

**The Policy should meet the objective of the Sale of Liquor Act 1989** – the objective of the Act is set out previously in this document. All District Licensing Agency actions will be consistent with the Act.

**The Policy should be fair and transparent** – the policy will seek to balance the interests of the Central Hawke's Bay community with those of providing economic opportunity to businesses. Evaluation of applications will occur in a manner that is clear to interested parties.

**The Policy should promote conflict resolution** – where conflict over any issue covered by this policy occurs, the District Licensing Agency will endeavour to resolve these issues prior to any legal measures being employed.

### 3. CURRENT ALCOHOL INITIATIVES

This section sets out initiatives that are currently in place in Central Hawke's Bay for dealing with alcohol issues. This does not comprise a formal alcohol strategy for Central Hawke's Bay rather it demonstrates the linkages between this Policy and the following alcohol initiatives.

#### 3.1. Host Responsibility

The District Licensing Agency will continue to cooperate with District Health Board staff and licensees in host responsibility initiatives to promote a safer Central Hawke's Bay for residents and visitors. Licensees will be encouraged to meet the Host Responsibility guidelines produced by the Hawke's Bay District Health Board.

#### 3.2. Liquor Bans

Central Hawke's Bay District Council recognises the role that its Liquor Control In Public Places Bylaw has in minimising liquor abuse in key public areas. Locations for liquor bans are defined in the Bylaw or by Council resolution from time to time. Where designations of liquor licenses encompass areas within liquor ban locations or where special licenses are granted in liquor ban areas the Agency will take those matters into consideration.

#### 3.3. Harmonised Policy with Hastings District and Napier City

In an effort to ensure consistency on a regional basis, Central Hawke's Bay District Council has sought to harmonise its Policy with that of Hastings District Council and Napier City Council where possible. Each area has its own unique character and drinking culture, however, problems associated with alcohol consumption are reasonably similar in all locations. Harmonisation of the Policies allows for some consistency in the Hawke's Bay.

### 4. LICENSING HOURS POLICY

The 1999 Amendment to the Sale of Liquor Act gave authority to District Licensing Agencies to authorise the hours of operation of licensed premises.

The following liquor licensing hours shall apply within Central Hawke's Bay.

#### 4.1. On Licenses

The DLA will consider all applications on their merits.

The maximum hours of operation for all on-licensed premises, both new and existing premises (other than trading hours for house guests in premises that are subject to hotel style on-licenses), will be Monday to Sunday 7.00 AM to 1.00 AM the following day.

The trading hours sought by an applicant must be permitted in the District Plan (Resource Management Act 1991), but often there are reasons for additional restrictions on hours. In residential areas the effects on residential amenities are a major concern. Effects include

(but are not limited to) noise from licensed premises, including noise from patrons travelling to and from the premises. Such additional restrictions on hours may reflect the concerns of the Police, the Liquor Licensing Inspector or the general public.

The Liquor Licensing Authority (LLA) and the DLA set the hours of operation after considering the reports from the Liquor Licensing Inspector, the Police, the Medical Officer of Health and any objectors.

#### **4.2. Off Licenses**

The maximum hours of operation for all off-licensed premises, both new and existing premises, will be Monday to Sunday 7.00 am to 12.00 midnight and shall comply with the District Plan.

Off licenses will generally be granted in accordance with these hours, however, where an applicant can make a case for harmonising the hours of an Off License with an On License in operation on the same premises, consideration may be given to an extension of these hours.

#### **4.3. Club Licenses**

Licensing hours are to be consistent with the nature and activities of the club. In general, hours of operation shall range from 8.00 am to 1.00 am the following day.

#### **4.4. Special Licenses**

Licensing hours are to be consistent with the nature of the occasion(s) or event(s) and shall comply with the District Plan. Any hours requested outside those allowed for in the District Plan will require Resource Consent prior to determination of the Application for Special Licence. Any costs involved in the Resource Consent process will be borne by the applicant.

#### **4.5. Notes with Regard to Licensing Hours**

- a) Applications for off licenses past midnight will be considered by the District Licensing Agency on a case by case basis.
- b) The above hours are meant to be read in conjunction with the requirements of the Central Hawke's Bay District Plan and do not imply any proposed activity is provided for in the District Plan. The location and hours of all licensed premises shall be controlled by the Central Hawke's Bay District Plan.
- c) Outdoor dining hours may be restricted where noise impact to residential areas is considered likely. As guidance, 10.30 pm will be used as a benchmark time.

## **5. LIQUOR LICENSING POLICY**

### **5.1. New On, Off and Club Licenses**

The District Licensing Agency must accept all complete new and renewal applications for on, off and club liquor licenses. The Agency shall undertake assessment of the application(s) and seek reports from its licensing inspector, the Police, the Medical Officer of Health and the community through a public notification process.

All applications must be complete (that is, be accompanied by all relevant information) prior to their being accepted for processing. Information supplied to allow for assessment of new applications for on and off licenses will include all documents required by the Sale

of Liquor act 1989. Where the application is for a new licence the applicant shall provide proof that the activity meets the requirements of the Central Hawke's Bay District Plan, the Resource Management Act 1991 and has all other requisite permissions.

It is the responsibility of the applicant to provide all relevant information for a licence.

## 5.2. Renewal of On, Off and Club Licenses

The Sale of Liquor Act 1989 requires that all licenses issued must be renewed after an initial 12 month period and then prior to expiry (normally 3 yearly). The uncontested renewal of an on, off or club licence shall be subject to satisfactory reports covering the following areas:

- The standard of management of the premises including satisfactorily addressing the following: dealing with minors or intoxicated persons on the premises, antisocial behaviour, violence, provision of required signage and compliance with license conditions.
- The adequacy and implementation of the host responsibility policy for the premises.
- Public complaints or objections including, but not limited to, complaints relating to noise, environmental factors or antisocial behaviour in the vicinity of the premises.
- Operation of the licence in accordance with license conditions (including licensing hours).
- Convictions recorded against the licensee.
- Any changes to the scale or nature of the operation.

Applications for variations to licenses will include assessment of the above and environmental or other effects of proposed variations.

## 5.3 Special Licenses

Special Licenses may be applied for to extend the hours and/or area of operation of existing licensed premises for a special event or series of events or where there is a desire to sell liquor to persons attending an occasion or series of occasions or events (sections 73 and 74 of the Act).

Applications for special licenses should be filed 15 working days prior to the intended event. This time period is specified by statute to allow sufficient time for Police reporting. Applications submitted with less than 15 working days available to the District Licensing Agency may not be processed in time for the event and are submitted at the applicant's risk.

All applications must comply with the provisions of the District Plan. Conditions may be imposed on any special licence to mitigate the potential for noise or other environmental effects. Where an opposition to an application is received the application will be referred for a formal hearing to the District Licensing Agency for a decision.

The approval of a special licence that covers portions of the District covered by liquor bans will be deemed to temporarily lift the liquor ban for the duration of the special license. In some circumstances public notice may be required by the applicant. This process is detailed in the Central Hawke's Bay District Council's Liquor Control In Public Places Bylaw 2008.

Applicants organising large scale special events (with over 500 people likely to attend) may be required to provide an alcohol management plan at the discretion of the Secretary

of the DLA, its Deputy Secretary or the Liquor Licensing Inspector as a condition of the special licence. This would include as a minimum:

- Host responsibility measures (including provision or catering of food and low and non alcoholic drinks).
- Security measures.
- Management of minors.
- Management of intoxication.
- Full description of the nature of the activity/event proposed.
- Transport measures/exit from site issues.
- Duty Manager – on site contact during the event.
- How enforcement officers can access sites to facilitate monitoring.
- Noise Management Plan (if required).

Special licenses should only be issued for special events and not merely to allow an extension of existing licensing hours.

Notes for Special Licenses:

- Special licenses are to be applied for by the person or entity that receives the revenue from the sale of liquor.
- In the case of events where numbers of liquor outlets will be present, each individual outlet must apply for an individual licence. There is no exception on numbers of outlets present.
- Special Licence for clubs without club licences will be issued with consideration to the following:
  - Club membership/size of club.
  - Number of events/occasions applied for.
  - Hours applied for (are they consistent with the nature and activities of the club).
  - History of the club (i.e. suitability of the applicant).
  - Turnover from the sale of liquor during past seasons.

In some circumstances it may be appropriate for a club to make application for a club licence rather than using special licenses.

- Special licenses cannot be renewed and each application will be considered separately. All required documentation is to be included whether or not the application is similar to one previously submitted.
- No special licenses will be issued to on-licence or off-licence holders for the three and a half sacrosanct days. A licence will only be issued for specific special occasions, such as a wedding. This will be considered on a case-by-case basis and will include specific conditions.
- Special licence application fees will not be refunded except under extraordinary circumstances. The DLA has no obligation to refund an application.
- In the case where a special licence has been cancelled, if processing of the licence application has been undertaken, the fee may be held until another special licence is applied for.
- Common special licenses (for example the annual rugby season) will be issued (subject to the normal process for applying for a special licence) with the same conditions including licensed hours.
- Special licenses will be required for any liquor consumption in the Waipawa Town Hall.

#### 5.4 Temporary Authorities

Temporary Authorities may be applied for to enable the new owner of a premise to carry on a business whilst waiting for their own licence to be issued. All Temporary Authority applications must be accompanied by proof of sale and purchase of the business, a copy of the lease and clear indication of landowner consent for use of the building. Although not a requirement of the Act, new applications for a temporary authority will be forwarded to the Police for comment.

The maximum period of time a temporary authority can be issued is 3 months. It is generally considered that 6 months is sufficient time for a prospective licensee to have completed the process to obtain a full licence. Unless exceptional circumstances exist, no more than two temporary authorities will be issued. A temporary authority will not be issued beyond the base date of the main licence.

Notwithstanding the above, it will be a condition of every temporary authority that an application for full licence will be submitted to the DLA prior to the expiry of the first temporary authority.

#### 5.5 Redefinition of Premises

Under the Sale of Liquor Regulations 1990 Reg.7 (3), a licensee may apply for a change of definition.

The change of definition must be accompanied by the appropriate application form. A greater area will usually result in a greater scale and intensity of the business so will therefore require Building and Planning consent. These consents may incur fees.

#### 5.6 Variation of Conditions

A licensee may apply for a variation of conditions of the licence at any time.

Variation is best sought at the time of renewal. If variation is sought during the licensed period, the prescribed fee must be paid.

In consideration of the variation, the following will be considered:

- The nature of the variation sought.
- Any adverse effects the variation may have.
- Matters raised by complaints or objections to the applicant.

## 6. MANAGERS CERTIFICATES POLICY

### 6.1. General Managers

Applications for General Managers Certificates will be received from individuals who have completed NZQA training that qualifies them to hold a Licensed Controllers Qualification (LCQ) issued by the Hospitality Standards Institute. The LCQ must be submitted with the application. In addition applicants will supply:

- Evidence as to the applicant's character and reputation (a reference must be provided by the employer and a brief CV be provided).
- A declaration of any criminal convictions.
- Evidence of recent experience in the control of licensed premises. (Generally six months experience is required however applications will be considered on a case-by-case basis.)

An interview will be undertaken to assess the applicant's understanding of the Act. If the Inspector is not satisfied, a further interview will be required prior to the certificate being issued.

In assessing applications the District Licensing Agency will consider the above information and any issues raised in the reports of the Liquor Licensing Inspector and the Police.

The DLA sends out reminders when manager's certificates are coming up for renewal, however, it is the responsibility of the certificate holder to ensure that renewal applications are submitted within the prescribed timeframes.

## **6.2. Club Managers**

Applications for Club Managers Certificates will be received from individuals who have undertaken either sufficient training or the Central Hawke's Bay District Licensing Agency's Club Manager's Questionnaire to enable them to exercise control over the sale of liquor within a club premises. In addition applicants will supply:

- Evidence as to the applicant's character and reputation (a reference must be provided by the club manager or committee).
- A declaration of any criminal convictions.
- Evidence of recent experience in the control of licensed premises.

In assessing applications the District Licensing Agency will consider the above information and any issues raised in the reports of the Liquor Licensing Inspector and the Police. Generally persons working in Clubs will only be eligible for a Club Managers Certificate.

The DLA sends out reminders when manager's certificates are coming up for renewal, however, it is the responsibility of the certificate holder to ensure that renewal applications are submitted within the prescribed timeframes.

## **7. ENFORCEMENT AND MONITORING ACTIVITIES**

Liquor Licensing Inspectors will undertake periodic assessments of licensed premises to ensure compliance with the Act and adherence to the Liquor Licence Conditions.

The District Licensing Agency will endeavour to cooperate with the Police in matters of Sale of Liquor enforcement. This will encompass:

- Information sharing.
- Joint operations to determine Act compliance (such as controlled purchase operations).
- Regular meetings between the Police, District Health Board staff and the Liquor Licensing Inspectorate.
- Periodic checks with regard to alcohol promotions where complaints are received.

<b>Central Hawke's Bay District Council</b>	<b>POLICY MANUAL</b>	
	<b>Document #</b>	7.1
<b>GENERAL FUNDING POLICY</b>	<b>Approved by:</b>	Council
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1. Council will ensure that sufficient funds are available from rates, Government or Regional grants and subsidies, fees and charges for supply of goods and services, and loans, to meet the planned and necessary expenditure of the Central Hawke's Bay District Council.
2. Council will set fees and charges for goods and services supplied in a competitive market to achieve the greatest economic return. Fees and charges for goods and services delivered in a non-competitive market will be set to reflect the cost of provision and the ability to pay.
3. Council will borrow money prudently, having regard to the true cost of borrowing, the term of the loan, the purpose for which the loan is necessary and the ability of ratepayers to fund the loan. Indebtedness will be monitored and if desirable restructured to meet this objective.
4. Council will press for effective revenue sharing measures to supplement rates and seek the provision of funds from Central Government to meet the costs of functions devolved to it by Central Government.

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<b>Central Hawke's Bay District Council</b>	<b>POLICY MANUAL</b>	
	<b>Document #</b>	7.18
<b><i>RATING SYSTEM POLICY</i></b>	<b>Approved by:</b>	Council
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Council will operate a rating system which endeavours to meet three requirements:

- a) The rates systems should be equitable so that the District ratepayers are sharing the rate burden fairly.
- b) Be clear and easily understood so that ratepayers can determine the amount of rates charged for the provision of various benefits and services.
- c) The rates collected should reflect a benefit to the District ratepayers and it should reflect the true cost of providing those benefits.

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