

# SOUTH WAIRARAPA DISTRICT COUNCIL

15 OCTOBER 2014

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## AGENDA ITEM C8

### APPOINTMENT OF PANEL TO HEAR AND DECIDE SUBMISSIONS ON THE DRAFT LOCAL ALCOHOL POLICY

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#### **Purpose of Report**

To allow Councillors to consider the establishment of a joint panel to hear public submissions lodged on the draft local Alcohol Policy and to appoint its representatives on the panel.

#### **Recommendations**

Officers on behalf of the Wairarapa Alcohol Working Group (WAWG) recommend that the Council:

1. *Receive the information.*
2. *Resolve to approve the establishment of a joint panel to hear and decide public submissions on the draft Local Alcohol Policy subject to the terms of reference set out in paragraph 3.1 of this report.*
3. *Resolve to appoint Crs V. Napier and J. Riddell to represent Council on the panel.*

#### **1. Executive Summary**

Councillors will be aware that a draft Local Alcohol Policy has been prepared on behalf of the 3 Wairarapa Council's by the WAWG.

This draft was adopted by the 3 Council's for public consultation under Section 83 of the Local Government Act during August. Section 83 sets out the special consultative procedure which must be followed.

The period for submissions ends on 10 October 2014 and it is proposed to hear any submissions lodged commencing on the 24th of October, 2014.

In order to enable a consistent approach to this process, it is proposed by the WAWG to establish a joint hearings panel. Once the panel has decided its response to the submissions, the findings and recommendations will be incorporated into the LAP. The LAP will then be adopted by each Council as a provisional LAP.

**Note:** *As the panel will have the jurisdiction to hear and decide it is not expected that any changes can be made to the provisional LAP. If this was to occur then the submissions would have to be re-heard.*

This document can then be “appealed” by any party who lodged a submission to the Alcohol Regulatory Licencing Authority (ARLA), if they remain opposed to any provision(s) in the LAP. ARLA will hear on a “de novo” basis any such appeals and make a final and binding decision.

## **2. Background**

Under the Sale and Supply of Alcohol Act a Council can develop a Local Alcohol Policy (LAP). Council’s may also combine to do this. The LAP can contain policies relating to a number of specified matters relating to alcohol, including for instance, hours of trading, one way door policies, number of licenced premises and general conditions which may be imposed on a licence by the District Licencing Committee (DLC).

The draft LAP was considered by Council at its last meeting. Council resolved to adopt the draft LAP for consultation, as did Carterton and Masterton District Councils.

As part of the consultation process, newspaper and radio will be used to explain the draft LAP’s provisions and to advise how submissions may be lodged. It is also proposed to hold a public meeting where information on the LAP will be provided to the public in attendance.

## **3. Terms of reference and appointment of panel members/roles**

### **3.1 Terms of reference**

The WAWG proposes that the panel be constituted as a joint hearings panel to hear and decide public submissions on the draft LAP and to recommend a Provisional LAP to the 3 Council’s for adoption at the end of that process.

The panel would be constituted with 6 members, 2 from each of the 3 Council’s. It is proposed that the current Councillor representatives on the WAWG be appointed as they are very familiar with the requirements of the legislation.

A quorum would be at least 1 member from each Council. Should any member be absent when a submission is presented they would not take part in the determination and decision making on that (those) submission(s).

### **3.2 Appointment of Panel Members and roles**

Because of their familiarity with the LAP and the surrounding issues and information, it is considered that each Council should appoint its current WAWG members to the panel.

If this is agreed by each Council, then the WAWG propose that its Chair, Cr Napier, chair the panel also. Cr Greathead would be the Deputy Chair as she holds this role for the WAWG.

### **3.3 Legal Implications**

In order to progress the development of the combined LAP for the Wairarapa it is necessary to hear any submissions lodged on the draft through the current consultation process. While this can be done by each Council individually, this could lead to difficulties. Each Council would have to hear every submission and make a decision. This would be confusing for the public and lead to significant inconsistencies with the document. This would become legally difficult to manage and would put the LAP or at least significant provisions in the LAP at risk of being rejected on appeal.

A single consistent process should avoid these legal risks.

### **3.4 Financial Considerations**

Running a single hearings and decision making process would be significantly more efficient and effective as compared to each Council doing so. Costs will therefore be kept to a minimum and the best use of Councillor and officer time will be ensured.

## **4. Conclusion**

The 3 Councils are required to hear and consider any public submissions on the draft LAP. It is most efficient to do this jointly. In order for that to happen each Council needs to resolve to support the establishment of a joint panel and agree the general terms of reference. In addition each Council is required to appoint its members to the panel, should it agree to proceed on that basis.

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