

<b>MINUTES REGULATORY MANAGEMENT COMMITTEE</b>	<b>MEETING HELD ON THURSDAY 20 NOVEMBER 2014</b>	<b>TIME 10.00AM</b>
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**MINUTES** of a meeting of the **Regulatory Management Committee**, held in the Council Chambers, 175 Rimu Road, Paraparaumu, on Thursday 20 November 2014 commencing at 10:00am.

PRESENT:

Cr	D	Ammundsen	(Chair)
Cr	P	Gaylor	
Cr	K	Gurunathan	
Cr	J	Holborow	
Cr	M	Cardiff	
Cr	D	Scott	
Cr	G	Welsh	
Cr	M	Bell	
Cr	J	Elliot	
Mr	C	Royal	(Māori Representative)

IN ATTENDANCE:

Mr	C	Pearce	(Member, Ōtaki Community Board) – until 1.07pm
Mr	M	Scott	(Chair, Waikanae Community Board) – from 10.40am
Ms	S	Foss	(Acting Group Manager, Regulatory Services)
Mr	S	Mallon	(Group Manager, Infrastructure Services)
Mr	S	McArthur	(Group Manager, Strategy & Partnerships)
Ms	T	Evans	(Group Manager, Community Services)
Mr	D	Lew	(Environmental Planning Manager)
Ms	K	Dorofaeff	(Principal Policy Planner)
Ms	E	Thomson	(Senior Policy Planner)
Ms	R	O'Brien	(Team Leader, Development Control)
Mr	N	Fowler	(Environmental Standards Manager)
Ms	J	Foote	(Team Leader, Animal Control)
Ms	V	Starbuck-Maffey	(Democracy Services Manager)
Ms	A	Boston	(Regional Public Health)
Sgnt	J	Muir	(New Zealand Police)
Ms	S	Haddleton	(Executive Secretary, Regulatory Services)

APOLOGIES

Mr	R	Church	(Mayor)
Mr	J	Westbury	(Member, Waikanae Community Board)

The Chair welcomed everyone to the meeting, outlined meeting guidelines and read the blessing.

The Chair introduced the Committee to Stuart Harvey who is the new Senior Development Engineer.

The Chair acknowledged the recent passing of Cr Tony Lloyd, who will be sadly missed.

#### **RMC 20/11/55 APOLOGIES**

**MOVED (Gaylor/Bell)**

**That apologies be accepted from James Westbury and Ross Church.**

**CARRIED**

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The Chair congratulated Cr Holborow and Cr Bell who have passed with excellence their RMA Hearing Commissioners Accreditation training course.

**RMC 22/11/56  
DECLARATIONS OF INTEREST**

Declarations of Interest – there were none.

**RMC 22/11/57  
PUBLIC SPEAKING TIME**

1. Mr Dale Evans spoke to item 8 on the agenda (Approval of Draft Local Approved (Psychoactive Substances) Products Policy (SP-14-1351)). Mr Evans objected to the sale of these substances being restricted to one site. A number of official information requests were made by Mr Evans.

Mr Evans was of the view that the substances should be sold in the same sites they were sold under the old legislation.

2. Mr Mike Woods spoke to item 8 on the agenda (Approval of Draft Local Approved (Psychoactive Substances) Products Policy (SP-14-1351)). Mr Woods expressed his shock at the Council's proposal to have one site sell psychoactive substances and shared his experience of customers coming from other areas to the one supplier to make purchases. Mr Woods suggested that the sale of psychoactive substances be restricted to out of town.

**RMC 22/11/58  
PRESENTATION: ROAD SAFETY ADVISORY GROUP**

Mr Brent Cherry introduced Bruce Johnston who is the new Transport Safety Coordinator.

The Chair acknowledged that this was Mr Cherry's last meeting and thanked him for his work on Road Safety with Schools.

The meeting noted that the Road Safety Advisory Group presentation has been re-scheduled to take place after the Group next meets on 4 December 2014.

**RMC 22/11/59  
MEMBERS' BUSINESS**

- (a) Public Speaking Time Responses

The issues raised by the public speakers relating to item 8 on the agenda (Approval of Draft Local Approved (Psychoactive Substances) Products Policy (SP-14-1351)) will be responded to as part of that agenda item.

- (b) Leave of Absence - there were none.
- (c) Matters of an Urgent Nature - there were none.

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**RMC 22/11/60  
CONFIRMATION OF MINUTES: 02 October 2014**

An amendment to page 8 of the minutes was requested – Cr Gurunathan was incorrectly referred to as “Guru”.

**MOVED (Bell/Holborow)**

**That the amended minutes of the Regulatory Management Committee meeting dated 2 October 2014 are accepted as a true and accurate record of that meeting.**

**CARRIED**

**RMC 22/11/61  
MATTERS UNDER ACTION**

In considering Matters Under Action, the following points were raised:

- The applicant of the Firewood Business has requested that this be put on hold. Ms Rita O’Brien confirmed that this business has not been selling firewood from their site.
- Big Mac Slabs – decision to grant, subject to conditions was issued on 17 November, the appeal period closes 8 December.
- Kapiti Island Nature Tours – the current application is for the activity to remain the same – more details about the activity of this business is available on the website.
- New World Kapiti – the hearing was held approximately three months ago and was appealed within two weeks. ARLA have advised to hold on these appeals until a decision is made on an existing two cases, dependent on the outcome of these two cases, there is the potential for the objection against New World Kapiti to be withdrawn.

**RMC 20/11/62  
MATTERS UNDER ACTION – REGULATORY LEGISLATION UPDATE**

- The legislative update was noted.

The Chair acknowledged Mr Don Wolff’s retirement and the work that he has done in the area of Dog Control.

**RMC 21/11/63  
APPROVAL OF DRAFT LOCAL APPROVED (PHYSCHOTIC SUBSTANCES) PRODUCTS POLICY (SP-14-1351)**

Sam Hutcheson (Senior Social Wellbeing Advisor) introduced Andrea Boston from Regional Public Health and Sargent Jacque Muir.

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Mr Stephen McArthur (Group Manager Strategy and Partnerships) introduced the report and acknowledged that Council cannot ban the sale of these products, only regulate them. Government has encouraged Councils to have a policy on this – if no policy exists, then retail outlets could be placed anywhere in the District.

The following discussion points were raised:

- A response was received to a letter to the Minister of Health, but it did not address all of the issues that were raised. The Paraparaumu/Raumati Community Board will invite the Associate Minister of Health Hon Peter Dunne and Hon Nathan Guy to their next meeting to discuss.
- The approach being taken is to consult regionally. Wellington City have put a draft policy out for consultation. The Porirua City consultation dates will be closely aligned with this process.
- The background to how the Kāpiti Road West option was chosen was explained. A number of areas were considered and the outcome was that there is no ideal space. Working in consultation with the Police and Regional Public Health (RPH), the current proposed area was chosen – it was considered safer than other areas as it is more visible, and further from sensitive sites and residential areas.
- The timing as advised by the Ministry of Health (MOH) was that they are developing regulations, once these have been completed it is possible to apply for a licence to sell. There have currently been no applications to sell products at this date as there are no licensed products. Initially, March was indicated as the date the regulations would be ready, this has now been extended to May.
- Once a product is licensed, an application can be made to the MOH to be able to sell. Outlets within the designated area are then able to sell the substances, however, if all the Landlords in the designated area refused to have the substances sold, there would be no retail outlets.
- It was requested that the proposed plotting on the area be reconsidered as it was thought, that when factoring in the 100m distance between outlets, there may be the potential for more than three outlets.
- Police advise that there had been no known issues of significance with the three previously licensed outlets, however there were a number of complaints from the public. A new area is being proposed, to restrict where retail outlets can be set up, which addresses an issue with the previous site in Paraparaumu which was considered to be too close to potential sensitive sites. There was also an issue with the existing site in Waikanae, which created some traffic issues.

*11.15am Cr Welsh left the meeting and returned at 11.20am.*

- From the time that Government revoked the previous licences, up until this point, there have been no spikes in incidences that can be specifically related to the sale of Legal Substances – it should be noted that this is difficult to measure. An increase in family violence incidents was noticed and anecdotally it was also noted that people who wouldn't use illegal substances were using the legal substances.

*11.20 Cr Scott left the meeting and returned at 11.27am.*

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- When talking about the proposed area being one of “high visibility” the focus was on selecting an area where people would make a purchase and then move on so it would not promote loitering or the on-selling of the substances.
- The area of central Paraparaumu gave consideration to the proximity of medical emergency services.
- There was concern that the location of the retail outlets might reduce commercial land value by way of association.
- Sale of legal highs is not possible from a mobile cart.
- RPH is not aware of any Councils who have made a conscious decision not to have a policy on Psychoactive Substances.
- The idea of putting the retailers at the end of a rural road has been suggested in other forums. On consideration, it was found that isolation makes things less safe and this also triggered a number of practical issues e.g. increased traffic on rural roads.
- Current Police priorities, commitment and emphasis are currently focussed on youth and preventing them coming into the Justice System. The Police are trying to minimise risk by identifying sensitive sites and avoiding setting up outlets near these sites to avoid harm to Youth.
- The current proposed area is believed to be the best area for the community, by the Police
- Quantity restrictions at the point of sale have not been released at this point. They are likely to be part of the regulations.
- Substance detection systems currently used by Police are not used to detect psychoactive substances.
- Monitoring of the use of these substances sits primarily with the MOH.
- The sale of these substances is not regulated under the pharmaceuticals legislation as the psychoactive substances and related testing regimes are considered distinctly different.
- Sale of substances will be to over 18 - there will be a regulatory and enforcement process around this. The Council is not responsible for this.
- The legal highs that were previously sold were found if the user had withdrawal support, to be not highly addictive. However, as users often use more than one drug it is not easy to monitor this.
- There is little information available around intention to purchase or impulse buying of the substances.

*The meeting adjourned at 11.40am and reconvened at 11.50am.*

- The judicial review in Waikato has been put on hold by the applicant as there are no substances being sold.

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- The definition of sensitive sites considers existing sensitive sites at the time that the policy is approved. If a new potential sensitive site wants to set up next to an existing licensed outlet, the existing outlet does not lose its license as a result. The definition of a sensitive site in the draft policy is open to community feedback and the feedback would be considered.
- The intention is to restrict the availability, operating within the scope of what the Council can do. The Council acknowledges the counterintuitive nature of providing a space for these substances to be sold.
- The legislation provides an opportunity for councils to join together and restrict the location of retail outlets. This option was explored, but is not possible.
- If Council made a decision not to have an area within the policy, it would become open to a judicial review, which could result in an opportunity for multiple sites to be opened in locations that there is no control over.
- Police do not currently have the tools or mandate to enforce the taking of these substances in driving. However, if a driver is pulled over and deemed to be impaired or in an unfit state to drive they can be required to accompany the Police to a station where a medical practitioner can undertake tests and certify that they are not fit to operate a motor vehicle.
- A single area of supply is more cost effective from a Policing perspective. However, the number of outlets is not related to funding - multiple outlets are considered to increase sales and the proposed one location is visible and addresses density issues.
- Properties in the proposed location have been consulted with by way of door knocking – in some instances discussions were held with tenants. A follow up letter will be directed specifically to owners.
- The opening hours of retailers are not currently regulated. However, it is expected that regulations will be in place when licenses are granted.
- Registered Pharmacies are not thought to be able to sell legal highs, this will be followed up on by the MOH.
- Legal highs being sold on the internet; is a point that is still under discussion with MOH.
- The proposed area for outlets covers the area from the Mad Butcher down to Repco and across the road. The Four Square is also included in the zone, however you licenses are not granted where food is sold.
- Council cannot influence the online sale of legal highs.
- MOH are responsible for regulation within the stores. This includes the products for sale, sale to minors and ensuring that there are responsible retailers. Legislation will be enforced and issues relating to advertising and marketing will be addressed as they arise.
- The MOH has plans to put a regulatory authority in place.

MOVED (Bell/Gaylor)

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Note that whilst acknowledging that the Council is unable to completely ban the establishment of licensed retail outlets, a Local Approved Products (Psychoactive Substances) Policy can reduce harm to the community by limiting the location of the retail outlets.  
Amendments were made to this resolution as follows:

That the Committee note that whilst acknowledging that the Council is against the sale of and is unable to completely ban the establishment of licensed retail outlets, a Local Approved Products (Psychoactive Substances) Policy can reduce harm to the community by limiting the location of the retail outlets.

Points of debate:

- The legislation is deeply flawed. As community representatives Council need to lead the process, rather than currently managing it. By accepting it the Council is condoning the use of the products in our district.
- Some of the Councillors supported the recommendation on the basis that it can then go forward and begin the process.
- Government has the power to legislate on the sale of drugs, so there was uncertainty around why Local Council needs to be involved.
- Council needs a policy as if we do not, it could be detrimental to the Council's ability to fight.
- Will only support the recommendation as it goes some way to protecting the most vulnerable in the community.
- If a policy is not passed, the regulations and the criteria that may be set may mean the Council has less control. Going to consultation with the public signals that the Council does not like the Government's decision, but that Council wants to protect as much as it can.
- The recommendation goes some way to protecting the community and not supporting it opens the community up to a level of risk.
- Cannot support something that states outlets can sell Psychoactive Substances, we should be pushing back and saying we can't find a suitable area for an outlet.
- Council needs to start consulting with the community.
- The recommendation is sending a message that the policy is going to reduce harm – it is misleading.

*VOTING on the amended motion:*

*For – four votes*

*Against – six votes*

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The motion was further amended as follows:

**MOVED (Bell/Welsh)**

**That the Council opposes the sale of psychoactive substances within the Kāpiti District and will lobby the Government to seek legislative change to ban psychoactive substances.**

**CARRIED**

**Caleb Royal voted against the motion.**

**MOVED (Gaylor/Bell).**

That the Regulatory Management Committee approves the release of the Draft Kāpiti Coast Local Approved Products Policy for consultation with the Kāpiti Coast community, using the Special Consultative Procedure under the Local Government Act 2002.

The following points were raised:

- There is no ability to delay this, Council needs to be very clear with our messaging that the Council will fight this.
- If Council is unsuccessful in our fight with Central Government, something needs to be implemented. There needs to be an information pack for the community, making it clear of the implications of saying “no”.
- The meeting agreed the second to last question at the beginning of page 41 of the report should be moved.
- An amendment was suggested to acknowledge there is legislation that limits the location, the mover and seconder agreed to the amendment and an amended motion was read out.

The motion was amended as follows:

*That the Regulatory Management Committee approves the release of the Draft Kapiti Coast Local Approved Products Policy for consultation with the Kapiti Coast community, using the Special Consultative Procedure under the Local Government Act 2002, acknowledging that the legislation only allows Council to limit the location where these products can be sold.*

Some concern was raised about the wording “minimise potential harm” which is wording from the LGNZ template. Staff would examine the wording more critically to ensure its correctness.

It was suggested that during consultation we ask “Do you want psychoactive substances sold in the Kāpiti Coast?” As this decision is not within our power, it was decided that including this question would be misleading.

The question “Do you support our lobbying of Central Government?” could also be included.

**MOVED (Gaylor/Bell)**

**That the Regulatory Management Committee approves the release of the Draft Kapiti Coast Local Approved Products Policy for consultation with the Kapiti Coast community, using the Special Consultative Procedure under the Local Government Act**

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**2002, acknowledging that the legislation only allows Council to limit the location where these products can be sold.**

**CARRIED**

**Cr Elliott and Cr Scott voted against the motion.**

*The meeting adjourned for lunch at 1.04pm and reconvened at 1.30pm*

**RMC 20/11/64  
UPDATE 3 ON PROPOSED DISTRICT PLAN (SP-14-1377)**

Katherine Dorofaeff spoke to this report.

The following points were raised:

- Rural Landowners have been met with and the team are continuing work with the Regional Consistency working party and also attending Town Centres project meetings.
- The process around revised rules with immediate effect, withdrawal of provisions related to coastal hazards, hazardous substances and facilities for restoration have been completed.
- Registration of interest from potential commissioners have been received.
- There was a workshop held on 28 October to review submissions and a recommended approach to them.
- Have also met with consultants around flooding and the people who made related submissions.
- A major pre-hearing meeting will be held next week with key submitter on the coastal environment and a meeting with the rural advisory group that is forming. This group comprises the 250 individuals who made submission on rural aspects of the plan and is seen as a more efficient and targeted approach to working through the issues that are being raised.
- It is not currently possible to make submissions on brothels in suburban areas. An individual has made contact on making a submission and there has been an undertaking to identify actual submitters on this matter and provide the names to this individual.

**MOVED (Scott/Holborow )**

**That the updated report (SP-14-1377) be received.**

**CARRIED**

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**RMC 20/11/65  
DISTRICT LICENSING COMMITTEE/SALE AND SUPPLY OF ALCOHOL ACT 2012 UPDATE  
(RS-14-1365)**

Nick Fowler (Environmental Standards Manager) spoke to this report. The Chair explained why this will be a regular feature of the agenda under matters under action.

The following points were raised:

- The report explains the District Licencing Committee membership and process for their involvement and that of other parties.
- It was highlighted that reports for special licences take eight hours to prepare.
- As at the end of October 2014 four hearings have taken place.
- New World Kapiti has been appealed by the Police and has gone to the Alcohol Regulation Licencing Authority (ARLA).
- Teleconferencing was introduced as a trial and is now being used regularly for Temporary Authority Orders – a much more efficient process.
- The health/licencing team has gone out and spoken to licencees about the recent changes in legislation.
- A report has gone to ARLA with recommendations for changes to processes to increase efficiencies and simplify for applicants.
- Grocery stores have to supply certified figures to prove they are grocery stores, to meet statutory requirements.
- Objections can be received from members of the public as well as reporting agencies. Objections are likely to proceed to a hearing.

**MOVED (BELL/WELSH)**

**That the Committee receives the report (RS-14-1365) and notes that regular updates will be provided**

**CARRIED**

*The meeting closed at 1.45pm*

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Chairperson

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Date