

Minutes for a hearing of the Policy & Regulatory Committee (to hear and consider submissions and make recommendations on the Proposed Waikato District Council Livestock Movement Bylaw 2022) held via Audio Visual Conference on **MONDAY 4 APRIL 2022** commencing at **9.31am**.

Present:

Cr JD Sedgwick (Chairperson)
His Worship the Mayor, Mr AM Sanson
Cr A Bech
Cr JA Church
Cr C Eyre
Cr JM Gibb
Cr SL Henderson (*from 9:33am*)
Cr SD Lynch
Cr RC McGuire
Cr F McNally (*until 12:22pm*)
Cr E Patterson
Cr NMD Smith
Cr LR Thomson
Cr CT Woolerton

Attending:

Mr A Cole (Federated Farmers)
Ms J Hahn (Federated Farmers)
Mr S Hazelton (Federated Farmers)
Ms W Clark (Federated Farmers)
Mr B Cameron
Ms R Costar
Mr G McBride

Mr R MacCulloch (General Manager Service Delivery)
Ms J Bishop (Contracts & Partnerships Manager)
Ms K Ridling (Senior Solicitor RMA)
Ms H Beaven (Corporate Planner)
Ms L Hood (Corporate Planner)
Mr R Bayer (Roading Team Leader)
Mr M Horsfield (Democracy Advisor)

APOLOGIES AND LEAVE OF ABSENCE

Resolved: (Cr Sedgwick/Cr Thomson)

THAT the Policy & Regulatory Committee:

- a. accepts the apology for lateness from Cr Henderson.

CARRIED

P&RH2204/01

CONFIRMATION OF STATUS OF AGENDA ITEMS

Resolved: (Crs Woolerton/Patterson)

THAT the agenda for the Policy & Regulatory Committee hearings and deliberations of the Proposed Livestock Movement Bylaw 2022, held on Monday, 4 April 2022 be confirmed and all items therein be considered in open meeting.

CARRIED

P&RH2204/02

DISCLOSURES OF INTEREST

There were no disclosures of interest.

REPORTS

Hearings Report on the Proposed Livestock Movement Bylaw 2022
Agenda Item 4.1

The report was received [*P&RH2204/02 refers*]. The Corporate Planner provided an overview of the report and process for the hearings and deliberations. The following discussion was held:

- Council previously had a livestock movement bylaw, however it had since lapsed.
- The proposed Bylaw was consulted on from 20 September 2021 to 29 November 2021. The consultation period was extended due to the COVID lockdown.
- There were 15 submissions overall, and five (5) oral submitters presenting at this hearing.
- Deliberations would commence immediately after the hearing.
- Councillor Smith, Patterson & Woolerton led a working group and worked with rural communities in the district to develop the Bylaw.

- It was noted there were some errors in the consultation document. Clause 11 was not supported by the working group and should have been removed. There were a number of submissions to the provision for 16 years of age requirement for livestock movement. The working group was supported the provision be changed to confident persons.

Resolved: (Crs Sedgwick/Smith)

THAT the Policy and Regulatory Committee:

- considers all submissions, and where requested, hear and consider verbal submissions, on the notified proposed Livestock Movement Bylaw 2022 pursuant to section 83 of the Local Government Act 2002; and**
- recommends to Council any amendments to the proposed Livestock Movement Bylaw 2022 as a result of submissions received.**

CARRIED

P&RH2204/03

Hearings – Verbal Submissions

The following submissions were presented, and submitters responded to questions:

Federated Farmers - Shaun Hazelton/Alan Cole/Jacqui Hahn/Wendy Clark (Submission ID 2153, Page 12)

- Federated Farmers had good experience dealing with livestock movement bylaws across the country. No livestock movement activity is the same, depending on the farm and the roads used. Farmers were bound by health and safety legislation and legislation from Waka Kotahi.
- Although the proposal was more stringent than other Councils, Federated Farmers supports the emergency and escape livestock clause of the proposed Bylaw and the decision making matrix.
- Clause 8.5 was critical and harsh, and was catered for in Clause 11.
- There were concerns with identifying age. This can be amended and rely on competent person, as a 14 year old could be a competent person but a middle aged man may not be. Competency relies on ability. His Worship the Mayor noted that removing the age requirement was concerning and some farmers may perceive competency in different ways.
- 400 permit limit – Federated Farmers had concerns with the 400 metre limit for permits. Council had the ability to accept and decline permits, and should be considered depending on the merit of the traffic management plan for the activity.
- Timeframe –A five (5) year timeframe would be reasonable for permits.
- Clause 16.2 – Federated Farmers understood the intent of the clause, however it should include the Land Transport Act 1998 to be consistent to where liability could be lie.

- Would Federated Farmers be happy for more appropriate words to be included for the definition of the crossing permit? Yes, to outline that crossings go from gate to gate within a 100 metre area.
- It would be reasonable for the permit to be able to be transferred when a farm changes hands.
- Neighbouring Councils – Does the Waikato District Council take into account that farms may cross district boundaries? Were there any policy conflicts with other neighbouring districts? Federated Farmers were unsure of any particular issues. If there was a joint boundary, farmers would be aware of both bylaws and adhere to the more stringent of the two.

Bruce Cameron (Submission ID 3598, Page 18)

- Moving permits – Supports the decision making matrix. Applicants should not have to identify all the roads they used. There has not been a livestock movement bylaw for a number of years and there had been no incidents in that time. The proposed Bylaw should be amended to state no more than seven (7) movements per week on average per year, to allow rare occasions where movement may need to happen more than seven times in a week.
- Mr Cameron supported that competent person should be used in the proposed Bylaw instead of an age limit. The duration of a permit should be a minimum of five (5) years, as it could be revoked at any time if there was misconduct. It was a waste of time for farmers to keep reapplying for permits.
- Signage – The cost of signage was large and it was up to Council staff or contractors to put up. When the signs were damaged, the farmer should be able to fix the signs themselves. The committee noted that there was not any specific detail in the proposed Bylaw regarding removing temporary signage when not in use. What could Council do to instruct farmers to remove temporary signage when not in use? Mr Cameron noted that education was important, it was in the farmers best interest that the public were attentive and that the sign should be removed after crossing had occurred.
- Submissions had picked up in the movement restrictions that stock could not be moved more than 400 metres. That was an error and should have been removed. Would Mr Cameron support that Council emphasize that the crossing should be across the road or no more deviation of 100 metres? Mr Cameron would support that.

Wendy Clark (Submission ID 2129, Page 20)

- Ms Clark was a farmer and experienced with moving stock on roads. Ms Clark had monitored the safety record of stock movements. The two incidents that had occurred were minor due to stray animals.
- Commended Council for the simplicity of the decision making matrix on whether permits were required.
- The Committee asked how could farmers help manage safety if vehicle movements occur on busy roads, particular around Auckland and Hamilton growth areas. Ms Clark noted that farmers were acutely aware that traffic volumes had increased, and the decision making matrix noted that particular roads were banned due to high traffic volume.
- Supports a five (5) year term for permits. The bylaw says that the permit be issued for a term of one (1) to five (5) years. It would be helpful for the clause to be reworded.
- Droving was less frequent and a permit should be permitted for five years. Condition one (1) of the droving permit was redundant. Is not where the drover was going but whether they adhere to the permit.
- Supported the track changes between page 54 and 69, except for two (2) changes. The first was an error in the coloured matrix on page 66 that defined a sealed rural road and as a road with a speed limit less than 70kmh, but it should read more than 70kmh. On page 61, clause 16.2, any person who fails to comply may be liable to a penalty. The clause should be deleted, as it was incorrect to say that a breach would be liable to a penalty as it was dependent on what had been breached. If you do breach a provision, the maximum fine would be forty times more than what was specified in the Land Transport Act. It does not need to be stated and does not add clarity to the bylaw.
- If farmer supplied signs were allowed, how could Council ensure that farmer supplied signs were adherent to Council regulations? Signs that were similar to those provided by Council were available for purchase at a lesser cost. It would depend if those signs were still available to purchase.

Rosemarie Costar (Submission ID 2154, Page 24)

- Clause 7.7 allows the permit to be transferable if stock numbers and the numbers of crossings stayed the same.
- Supports the 100 metres restriction for crossings and the removal of the 400 metres for droving.
- Farmers often had a stock crossing policy with a training record. More farmers were getting up to speed with this.
- Setting a standard for signage - The local safety shop had the signs available for purchase for a low cost. Page 55 states that signage must be closed when not in use.

- Supports the track changes with exceptions of three issues. Firstly, the error with the wording on appendix three (3). Clause 11.1 allows Council to revoke a permit if matters were considered appropriate, however permits should be issued for five years. This would remove unnecessary costs to farmers.
- Thirdly, the subsidy for farmers to install an underpass for roads with less than five hundred (500) vehicle movements a day. Every farmer should either get the subsidy, or that farmers that use roads with less than 500 vehicles movement be exempt for the requirement for underpasses as long as they meet every safety requirement.
- Signs were often vandalised, which could lead to a serious incident. Farmers should be allowed to reinstall the signs rather than wait for Council to reinstall the signs.
- If signs were removed, should farmers have the ability to put the signs back in place? Ms Costar supported this.

Cr McNally left the meeting at 10:26am during the above item.

Graham McBride (Submission ID 3596, Page 28) Tabled Item

- The proposed Bylaw was an improvement compared to previous iterations.
- Mr McBride provided an overview of a crossing on his farm. The crossing had good visibility and signage. The crossing was only needed every six (6) weeks for 40-50 stock. Never had an incident in 48 years.
- There had been confusion previously between the droving function and the crossing sections of the Bylaw.
- There were open ended definitions in the proposed Bylaw such as excessive excrement. This could be subjective.
- Duration of the Livestock movement permit. There needs to be clarification for up to five (5) years.
- Entryway to crossing sites should be groundrock. Would tarsealed entryway to crossings be non-compliant?
- There had been issues with signs installed by Council being too tall to open.
- Sightline – There would need consistency for sightlines with a standard of 130m. There were a series of warnings for the stock crossing with other road crossings.

Cr McNally rejoined at 10:37 during the above item.

The meeting was adjourned at 10:45am and resumed at 11:02am.

DELIBERATIONS

Deliberations Reports for the Proposed Livestock Movement Bylaw 2022

Agenda 4.2

The report was received [P&RH2204/02 refers]. The Corporate Planner provided an overview of the report and process for the deliberations. The following discussion was held:

Excessive Stock Excrement

- Not sure there could be a position on what was deemed to be excessive as it was subjective. Waikato District Council is the roading authority and there needed to be provisions in the Bylaw that are different from provisions provided by Waikato Regional Council.
- A greater definition would be required to clarify what was excessive, but it was unclear how you would define this.
- Dirt and mud from cows could be just as much of an issue as excrement.
- Mats were useful in ensuring the roadway remains clean from excrement. There had been concerns that drivers had been racing over mats and damaging them.
- Unreasonable was well clarified in law and could be used instead of excessive. It could be more easily understood under the bylaw but remains vague.
- Was it possible to use pictures in the proposed bylaw to show what was and was not reasonable? The Committee would need advice from the Senior Solicitor.
- Waikato Regional Council had directive that stock wait 100 metres away from crossing so stock could work off any mud and dirt before crossing the roadway.
- Staff proposal was that the rule be retained and so that there was not a reliance on Waikato Regional Council enforcement.
- Excessive excrement poses a safety issue for road users. The wording could state that that farmers remove stock excrement where it poses a risk to road users.
- There had been complaints about cars getting dirty from driving through crossings.
- Could the word excessive be removed? The dictionary meaning for excessive was too much or great. If we put the onus on what was safe and what was not, it could still be subjective.
- Pictures don not need to be in the proposed Bylaw but could be in an explanatory note.
- If the word excessive was removed, then all excrement may need to be removed which was unreasonable.

- Council should be reasonable in assessing a complaint.
- The Roding Team Leader did not see the necessity for pictures as it was obvious whether it needs to be removed. Staff were quite practical whether it was necessary or not.
- Suggested that the word 'excessive' remain in the proposed Bylaw and staff enforce the Bylaw reasonably.
- There had been no prosecutions for excessive excrement on roadways. There had just been repeat discussions with farmers to do better.
- In the schedule there will be example of what excessive was and that common sense used by staff.

Maximum distance for driving stock down roads

- Gateways were not always directly across from each other. There was not an issue with small offsets (less than 100 metres). Questions asked why are crossings not assessed for safety relating to sightlines? Crossings needed to be reasonably tight. The 400m limit should be removed as noted in the track changes.

Signage

- Farmers should be able to purchase their own signs but they have to be compliant.
- Installing the signs would need to be signed off by staff.
- There needs to be clear and defined rules for where the signs were located. There needs to be a timeframe for a permit being issued and site inspections being undertaken. Applicants need to provide evidence of approved signage and a plan for signage placement.
- The farmer and Council staff should be able to assess the placement of the sign.
- Is there a way to state that temporary signs be removed when not in use? The proposed Bylaw did not have a specific requirement for removing temporary signage. This was not consulted on. The road controlling authority could remove the signs if necessary. There had been times when temporary signage had not be removed which had caused issues.
- The committee recommended that there should be an a option for compliant signs to be purchased by farmers and that installation required Council approval.

The meeting was adjourned at 12:50pm and resumed at 1:44pm

Permit Time Frames

- The committee supported the permit timeframe for zero (0) to up to five (5) years with an expectation it would be for five (5) years until there would be good reason not to.

Subsidies for stock underpasses

- On roads with less than 500 vehicle movements per day, farmers should not be required to have an underpass.
- The proposed Bylaw states that no changes were required, as Council was just passing the Waka Kotahi subsidy. The bylaw needs to include reference to the subsidy availability from Waka Kotahi.
- If Council deems for safety reasons, would Council be looking at supporting subsidies due to safety issues? It was a Long Term Plan (LTP) discussion and had not been budgeted in the LTP for further funding for subsidies.
- What is the difference between safety hazards for roads with under 500 vehicle movements per day and roads with over 500 vehicle movements? It would get to the stage where the private benefit outweighs the public benefits for a subsidy for underpasses.
- What is the scale of Council's liability for stock underpasses? Unsure, however in the last five (5) years there had been no underpasses built. There had been no discussions in the last three (3) years to build additional underpasses.
- Do staff have discretion for requirements for underpasses on roads with under 500 vehicle movements per day? To a degree, Council may issue a permit if it does not meet the specified criteria, and the proposed Bylaw lists a criteria for staff to consider for a permit.
- Discretion had been provided in the past in situations such as in the Aka Aka drainage area.

Fees & Charges

- Noted that if you remove charges the costs would be put on other ratepayers.

Conditions for Livestock Movement Permits

- Were no exit roads included? No exit roads should be in a different category as there was a large difference in traffic volume and could there be an allowance for no exit roads? Each application would be treated on its merits and traffic volume and how often farmers use the crossing. No thought had been given for the allowance for no exit roads.
- Routes needed to be identified. Council should know where people were crossing stock. When it comes to weather events, common sense needs to prevail when stock need to be moved to escape emergency situations. The bylaw does allow the movement of stock during emergencies.

Site distance requirements

- There should be some latitude for what was pragmatic.

EXCLUSION OF THE PUBLIC

Resolved: (Crs Lynch/Thomson)

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
Item 4.2 Deliberations Reports for the Proposed Livestock Movement Bylaw 2022	Good reason to withhold exists under Section 6 or Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item No.	Section	Interest
Item PEX 4.2 Deliberations Report for the Proposed Livestock Movement Bylaw 2022	7 (2) (g)	To protect legally privileged information

CARRIED

P&RH2204/04

Cr McNally left the meeting during the above item.

Resolution P&RH2204/05 is contained within the public excluded section of these minutes.

The open meeting was resumed and the following discussion was held:

Age of Competent Person

- Cr Woolerton supports that the the PCBU be 16 years or older.
- Cr Lynch supports the removal of the age requirement.
- Cr Smith noted that Council could not discriminate on age and supports the removal of the age requirement.
- Cr Eyre noted that age did not relate to competency. Staff considering permit applications should confirm if they have adequate health and safety policies in place.
- Cr Henderson noted that the proposed Bylaw should read that both persons assisting with livestock movement be competent with one person being 16 years and older.
- The proposed Bylaw distinguished roads where were permitted for livestock movement where two competent persons were required, however permits required one competent person 16 years and older.
- Cr Bech supports the removal of the age requirement.
- Cr Church supported an age requirement but if no age requirement was passed, it needs to be clear that industry standard competencies were met.
- Cr McGuire supported the removal of the age requirement.
- Droving stock down a road was very different to stock crossings.

Resolved: (Crs Smith/Patterson)

THAT the Policy and Regulatory Committee:

- a. That at least one competent person shall be present at all times while livestock are using crossings (without reference to age) as specified in Appendix two (2) of the proposed Livestock Movement Bylaw.**

A division was called for, voting for which was as follows:

For the motion: Cr Bech; Cr Eyre, Cr Gibb, Cr Henderson, Cr Lynch, Cr McGuire, Cr Patterson, Cr Sedgwick, Cr Smith, Cr Thomson

Against the motion: His Worship the Mayor, AM Sanson; Cr Church, Cr Woolerton.

The motion was declared **CARRIED** by 10 votes to 3.

P&RH2204/06

