

7.1 ANNUAL REPORT ON WESTERN BAY OF PLENTY DISTRICT LICENSING COMMITTEE 2021-2022

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This report provides information on the Western Bay of Plenty District Licensing Committee activities for the twelve-month period 1 July 2021 to 30 June 2022. This information is also provided to the Alcohol Regulatory Licensing Authority in Wellington as required under the Sale and Supply of Alcohol Act 2012.

1. The information listed in this report is in direct response to the reporting requirements of the Alcohol Regulatory Licensing Authority.

1. That the Compliance and Monitoring Manager's report dated 23 August 2022 titled 'Annual Report on Western Bay of Plenty District Licensing Committee 2021-2022' be received and the information noted.

2. The annual report provides a summary of activities for the Western Bay of Plenty District Licensing Committee. The information is required under the Sale and Supply of Alcohol Act 2012.
3. The statistical information is provided to the Alcohol Regulatory Licensing Authority through an online survey. The financial information for the financial year 1 July 2021 to 30 June 2022 is reported separately.
4. The District Licensing Committee (DLC) held one formal hearing during the 1 July 2021 to 30 June 2022 period on 8 April 2022 to determine an application for a new proposed bottle store situated in Te Puna. There were four public objections and the Police and Inspector both opposed the application. The DLC decision granted the application for a new OFF Licence to Angelin Enterprises Limited to trade as Te Puna Wines and Spirits.

5. The transition to online applications from paper applications took place on 1 July 2021. Applications for special licences, manager's certificates and on-licence applications can only be applied for through the Council website. The transition to online applications for temporary authorities, off-licences and club licences will be introduced online in the 2022-2023 period.
6. Public notification of licence applications via Council's website will be introduced in 2022-2023 period with the intention of informing local communities of licensing applications taking place within their local area.
7. Throughout the 2021-2022 period, the combined Tauranga City Council and Western Bay of Plenty District Council Local Alcohol Policy (LAP) adopted on 16 November 2015, was still in force. The LAP is required to be reviewed every six years.
8. The 2015 LAP reduced the trading hours for premises with later trading licences that were operating within the Western Bay of Plenty District since its adoption in 2015. The reduced premises trading hours apply across the district (maximum trading to 1am for on-licences and 10pm for off-licences).
9. The LAP was reviewed in the 2021-2022 period and the newly adopted LAP will come into force on 21 August 2022.
10. The 2022 LAP has addressed significant concerns of alcohol related harm by preventing any further bottle stores from opening in the Te Puke-Maketu ward. In addition, commencing on 21 August 2022, the closing time for all off-licences throughout the district will reduce by one hour to 9.00 pm.
11. The Alcohol Control Bylaw 2022 came into force on 6 May 2022 and superseded The Liquor Control Bylaw 2016. The major change was an increase in the size of the Te Puke alcohol free zone, which now encompasses the township of Te Puke, as opposed to the town centre.
12. Covid-19 has continued to impact DLC operations. There has been a reduction in the number in the number of special licences (78) and Manager's certificates (140) applied for throughout the year.
13. Covid-19 has impacted the way hearings are conducted. Technology such as Zoom was embraced by the DLC to conduct virtual hearings to continue to maintain the expected levels of service.
14. The Immediate Modification Order (IMO) is still in force, which provides for reporting agencies reporting deadlines to be extended. This has negatively impacted on turnaround times for businesses to obtain new licences and licence renewal processing.

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15. The DLC considers that the IMO allowed too much provision for time extension. There was no consultation directly with DLC's as to what was or wasn't possible during lock down. There could have been the opportunity for DLCs to consider and determine licences in certain circumstances without the input from Police and Medical Officer of Health.
16. This has directly impacted premises who have applications for NEW licences and are waiting to have their licences determined.
17. One of the tasks DLCs have, is to administer the Act in a reasonable manner. The delays caused by the IMO for some new applicants has been unreasonable.
18. The Alcohol Regulatory Licensing Authority in this year's annual report survey has requested comment on how the Sale and Supply of Alcohol Act 2012 is achieving its object. Note: the object of the Sale and Supply of Alcohol Act 2012 is that:
 - 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.
19. The DLC have responded with the following comments:
20. DLC decision makers are guided by caselaw and the ER Bellas Limited High Court decision [CIV-2020-488-60 [2020] NZHC 2517] assists DLCs with regards to the object of the Act. The decision determined that the evaluation of an application is a two-step process; and those steps could overlap if the decision maker (the DLC) believed an application could meet the Object of the Act by imposing certain conditions on the licence.
21. The DLC have concerns with how applications change from the initial time they are lodged with the Council to what is presented to the DLC several months later at a hearing.
22. The DLC welcomes stronger LAP's that contain caps on bottle stores in certain areas as Council has done. Such LAPs prevent time and money being expended repeatedly at hearings to address community concerns about the impact of individual OFF licences and reduce overall community anxiety about the effects of increasing numbers of outlets.
23. The DLC feel the IMO has delayed the consideration of new applications by several months and caused frustration from applicants.

24. There was concern that some off-licences were illegally selling through lockdown and red settings.

25. The Act is now 10 years old and possibly needs a full review. There is a rise in the number of applications for remote sellers or gift basket online sellers. The provisions of the Act around remote selling requires tightening.
26. The market for craft beers and 0% beers is steadily increasing in size.
27. Craft beer options are expanding and creating a culture of their own. Even though they are generally higher in alcohol content they are also higher in price. As most beer drinkers are price sensitive, they appear to be savouring the craft beer options and going for quality over quantity, which is having a positive effect on consumption.
28. The DLC believe the Act should be amended to require all licensed premises to stock and sell low-alcoholic drinks, and in addition, 0% beers/alcohol free wine/ alcohol free spirits.
29. The DLC feel that there are still too many cheap products such as the 1.25 litre Nitro range of spirit-based drinks allowed to be sold. These appeal to young persons and can be the steppingstone drink to full strength alcohol. The regulations should be tightened to eliminate more of these products.

30. The Sale and Supply of Alcohol Regulations 2013 include provisions around grocery stores. Regulation 12(1)(c) requires that a 'chartered accountant' verify the figures from prepared accounts.
31. There are additional organisations that have approved advisor group status from the IRD. These three organisations are The Accountants and Tax Agents Institute of NZ, the NZ Institute of Chartered Accountants, Chartered Accountants Australia and New Zealand and CPA Australia.
32. The Regulations should be amended as many grocery store operators have engaged accountancy services from non 'chartered accountants' and finding their renewal applications opposed by some of the agencies on the grounds that the figures are not prepared by a chartered accountant.
33. The Immediate Modification Order (IMO) should be repealed. Applicants for new licence applications are being severely disadvantaged by having to wait several months for a licence decision.

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34. The removal of the appeal process from the development of Local Alcohol policies (LAPs) will be of benefit to many communities.

35. The DLCs overall workload for 2021-2022 has decreased after COVID related lockdowns of 2020/2021. Special licence applications have significantly decreased for the 2021-2022 period.

36. The prevalence of reported cases of migrant abuse and labour breaches are starting to come through to the DLC. The DLC anticipate more will surface as the intolerance to migrant abuse continues to rise.

37. The Committee has maintained its position around accountability for off-licences in Te Puke. The town has a hardened group of street drinkers who were leaving large quantities of alcohol related litter in and around the central area.

38. Six of the off-licensed premises in Te Puke have consented to indelibly mark the base of each can of certain products with a unique identifier, to establish which store the alcohol (litter) comes from.

39. The initiative has encouraged operators to be extra careful as to when or if they sell alcohol to the street drinkers.

40. Over the 12-month period 1 July 2021 – 30 June 2022 fees totalling \$125,333.67 were collected of which \$7,578.50 was apportioned to the Alcohol Regulatory Licensing Authority, as required by the Sale and Supply of Alcohol Regulations 2013.

41. For trends and comparative purposes, the last four years licence application numbers are listed below.

TYPE	1 July 2021 to 30 June 2022	1 July 2020 to 30 June 2021	1 July 2019 to 30 June 2020	1 July 2018 to 30 June 2019
Special Licenses	78	119	71	122
On Licenses	33	42	18	26
Club Licenses	20	18	3	16
Off Licenses	24	19	11	14
Manager's Certificates	140	156	125	139
Temporary Authorities	12	11	3	10
TOTAL	307	365	231	327

Please note: the numbers for special licences and temporary authorities differ from the annual return provided to ARLA, as the ARLA return reflects applications paid. The variations in this report reflect applications lodged, and may include applications received but not paid for, applications still in process and applications cancelled.

42. The Licensing Inspector undertakes inspections of premises including:
- inspections of new licensed premises,
 - premises renewing their licence,
 - regular monitoring of premises during trade.
43. 97 licensed premises inspections were undertaken during the year.
44. Controlled Purchase Operation (CPO) visits were undertaken during the year by the Agencies, the number of operations undertaken is not available at this time.

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1. Annual Return to ARLA 2021-2022

2. Annual report ARLA- 2022- Listing of Licensed Premises