

DISTRICT LICENSING COMMITTEE

TERMS OF REFERENCE

November 2021

A. Interpretation

1. For the avoidance of doubt, nothing in this Terms of Reference prevails over the Sale and Supply of Alcohol Act 2012 (“SSAA”).
2. All sections referred to in this Terms of Reference relate to the SSAA unless otherwise stipulated.
3. “Eastern Bay of Plenty” refers to the Territorial Authority areas of Kawerau District Council (“KDC”), Ōpōtiki District Council (“ODC”) and Whakatāne District Council (“WDC”).
4. “Partner councils” refers to the three Territorial Authorities that are parties to the District Licensing Committees – KDC, ODC and WDC.
5. “Member” refers to the person/s presiding over an issue at a DLC meeting.
6. “List Member” refers to a person who is approved by all partner councils to be a member on the DLC and included in the list as attached as appendix 1.
7. “Commissioner” refers to the person approved by the partner Councils to preside over the meeting and undertake the responsibilities in the SSAA Section 193.
8. “Committee A” refers to the primary DLC that will operate unless the Commissioner of Committee A is unable to fulfil their duties because of illness or absence, or for other sufficient reason.-
9. “Committee B” refers to a secondary DLC that will operate if the Commissioner of Committee A is unable to fulfil their duties. Committee B has all the functions, powers and duties of Committee A.

B. Purpose

10. The purpose of this Terms of Reference (“TOR”) is to establish the working relationship of the partner councils, in regards to the District Licensing Committee (“DLC”).
11. KDC, ODC and WDC have appointed two shared DLCs to deal with licensing matters for the three Districts in accordance with section 186, as applicable. The DLCs have all the powers

conferred on them by or under the SSAA or any other Act and all powers as may be reasonably necessary to enable them to carry out their functions (section 188).

12. Members will be required to act in accordance with the SSAA and to implement the Eastern Bay of Plenty Local Alcohol Policy as adopted by the partner councils.
13. This TOR will undergo a review whenever the Eastern Bay of Plenty Local Alcohol Policy is reviewed. This is due to be reviewed by July 2022.

C. Membership

14. For each of the committees, in accordance with section 189, the DLC must consist of three members.
15. For each of the committees, one member must be appointed as commissioner by KDC, ODC and WDC. The commissioner will be a member of the DLC for their term in office as commissioner and will have all the functions, powers and duties of the commissioner of the DLC.
16. The DLC list members, [to be updated] included in Appendix 1, shall include at least one member that resides in or is generally associated with Kawerau, Ōpōtiki and Whakatāne Districts, in order to meet the requirements of section 29 of this Terms of Reference.
17. List Members will attend any training as is deemed appropriate and applicable by the partner councils.

D. Termination of membership

18. A commissioner holds office for a term, stated when the commissioner is appointed. The Commissioners of Committee A and B have been appointed for four years and may be reappointed for one further period of up to four years.
19. List Members have also been appointed for a period of four years and may be approved for any one or more further periods of up to four years.
20. List Members may resign or be removed from the DLC in accordance with section 194.
 - (a) A Commissioner or List Member may resign from office at any time by written notice to KDC, ODC and WDC.

- (b) At any time, partner councils may jointly agree to remove a Commissioner or List Member for inability to perform the functions of office, bankruptcy, neglect of duty, or misconduct, proved to the councils' satisfaction.

21. At the expiry of the List Member's term (in accordance with clauses 19 and 20 of this TOR), the name of the List Member will be removed from the list as attached as Appendix 1. The councils must approve a new candidate to fill the exiting List Member's place.

E. Meetings

22. Meetings of the DLC may be held at any time and place it or its commissioner decides, however it is expected these will be held at any partner council offices if possible.
23. Meetings will be scheduled at the commissioner's discretion and as needed, in consultation with the District Licensing Secretary.
24. At a meeting where three members are present, the decision of the DLC on any matter is determined by a majority of the valid votes recorded on it.

F. Quorum

25. The necessary quorum of any DLC meeting is three members, except if an application for, or a renewal of, a license or a manager's certificate has no objection filed against it and no matters of opposition have been raised under sections 103, 129, or 141, it may be considered and determined by the Commissioner alone.

G Meetings of the Full Committee

26. All applications of a kind where an objection has been filed and/or matters of opposition have been raised under sections 103, 129 or 141 of the Act, the full committee will consider and determine the application. In extraordinary circumstances, the Liquor Licensing Inspector or the Secretary may request a full committee meeting for an application for renewal of a licence.
27. The Commissioner may decide at his/her discretion that an uncontested application should be considered and determined by the Full Committee.
28. For the determination of each application that goes to the full committee, the Commissioner shall select on a rotational basis two other DLC members from the list. At least one of the members of the DLC shall reside in, or generally be associated with, the

District that is affected. For example, if an application relates to Kawerau, one member on the DLC determining the application shall either reside in, or generally be associated with, Kawerau District. Where no preferred list member is readily available, the Commissioner may select any of the remaining list members.

29. For the determination of each application that goes to the full committee, the DLC will meet in the affected territorial authority area, unless both the applicant and Commissioner agree otherwise. For example, if an application relates to Ōpōtiki, the DLC is expected to meet in Ōpōtiki District.

H. Procedure

30. The Committee will abide by the procedure as laid down in section 202 of the Act. This includes that if no objection to an application is filed, the committee may either grant the application on the papers or convene a public hearing to consider the application. Where an objection is filed, the committee must convene a public hearing to consider the application, unless:
- (a) The application is withdrawn
 - (b) The objection is considered vexatious or based on grounds outside the scope of the SSAA
 - (c) The objector does not require a public hearing.
31. The licensing authority or licensing committee concerned must give at least 10 working days' notice of the public hearing to:
- (a) the applicant; and
 - (b) each objector; and
 - (c) the constable, the inspector, and the Medical Officer of Health, to whom a copy of the application has been sent in accordance with this Act.
32. For all meetings requiring a hearing by the full committee, the committee will hold the meeting in public, and carry out proceedings in accordance with section 203 of the Act.
33. In accordance with Section 211, of the Act, all decisions must be given in writing and state:
- a) the reasons for the decision; and
 - b) what reports on the application were received; and

c) the attitude towards the application of every report.

34. The minutes of the DLC will be forwarded to each of the member councils for their information. The territorial authority must take all reasonably practicable steps to ensure that copies of all decisions are publicly available.
35. The DLC will implement the Local Alcohol Policy. If, however, a decision is made contrary to the LAP, the reasons for this decision will be recorded and reported to each partner council.

I. Secretary of licensing committee

36. The Chief Executive is the secretary for each of the territorial authorities DLCs. The three secretaries, on behalf of their respective DLCs, will delegate functions, duties or powers to a person jointly appointed to hold that position. Each Chief Executive will provide for this delegation in writing, stating each function, power and duty being delegated, in accordance with section 198.
37. The Secretary will be the point of contact for the Committee and all requests will be made through the secretary. If any matter requires escalation, it will be directed to the relevant General Manager at the respective Council or their delegate, and then the Chief Executive if it remains unresolved.
38. The Secretary will act as an advisor to the DLC, providing advice and support regarding the Act.
39. The Secretary will process all decisions made by the DLC in liaison with the Commissioner and as determined at meetings and ensure these are correctly signed off and disseminated as required.
40. The cost of providing the secretary will be shared between the partner councils based on time spent on license applications relating to their area.

J. Fees, allowances and costs

41. Members of the DLC are entitled to receive remuneration or be reimbursed in accordance with section 195. Rates are determined by the Minister of Justice in accordance with the cabinet fees framework. Payment will be made based on invoices received for time spent, in accordance with the contract for services.

42. Members of the DLC are entitled to be reimbursed for actual and reasonable travelling expenses, incurred in carrying out their duty as a member. The cost of return travel will be met by the Territorial Authority in which the meeting is being held. This distance will be measured from the member's residence in the Eastern Bay of Plenty, to the location of the meeting. Travel can be claimed at the rate set by the Remuneration Authority on an annual basis for elected member travel expenses.
43. Partner Councils will meet all actual and reasonable costs such as administration, publication of decisions, etc., relevant to applications relating to their districts.
44. Partner Councils will share equally the cost of training for List Members, Commissioner and Secretary.

Appendix 1 – List of Members approved to be Members of a DLC [to be updated]

Committee A

List Member	Residing in / generally associated with	Position
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Committee B

List Member	Residing in / generally associated with	Position
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