

KAWERAU, ŌPŌTIKI AND WHAKATĀNE DISTRICT COUNCILS

POSITION DESCRIPTION

POSITION TITLE: Commissioner, District Licensing Committee

Expressions of interest are invited from suitable persons for consideration for appointment as the Commissioner of the Eastern Bay of Plenty District Licensing Committee.

POSITION PURPOSE

The purpose of this position is to act as the Commissioner of the Eastern Bay of Plenty District Licensing Committee (DLC) that will consider and determine applications made under the Sale and Supply of Alcohol Act 2012.

More particularly, the functions of the DLC are:

- To consider and determine licence applications, renewals, variations, suspensions and cancellations
- To consider and determine new applications for and renewals of manager's certificates
- To consider and determine applications for temporary authority
- To conduct inquiries and make reports to the Alcohol Regulatory and Licensing Authority (ARLA)
- With the leave of ARLA, to refer applications to ARLA.

A DLC consists of three members appointed by a territorial authority for its district.

The Eastern Bay Councils have agreed to appoint a Commissioner to chair the DLC.

The Councils have also agreed to share a combined list of DLC members from which Committees will be appointed in accordance with terms of reference agreed by the Councils.

The DLC will issue well-reasoned decisions in writing and send copies to the relevant parties.

In its decision-making, the DLC will have regard and where applicable give effect to the Eastern Bay of Plenty Local Alcohol Policy (2016). The Eastern Bay of Plenty Local Alcohol Policy was reviewed in 2022/23 and remains provisional until the one appeal has been resolved.

WORKLOAD

The workload of the DLC will depend on the number and type of applications received and the number of applications that are objected to by members of the public or where reporting agencies are in opposition. All uncontested applications are to be considered on the papers by the Commissioner while

contested applications are considered by the full DLC. However, the Commissioner can decide that an uncontested application can be heard by the Full Committee should he/she decide that is appropriate in the circumstances. The implementation of the provisional Local Alcohol Policy may increase the role this policy plays in determining applications.

A DLC can transfer an application to ARLA for its consideration, with the agreement of the Chair of ARLA.

Across the Eastern Bay, the majority of applications are received for premises and events in Whakatāne (about 75%), while Ōpōtiki and Kawerau have fewer.

Based on the last twelve months of applications received, the Commissioner has made decisions on nearly 407 applications, with the Committee either physically or virtually meeting to decide 3 applications. Over this time, the Commissioner has provided over 300 hours of service in the role. List members are called upon less often but will sit for longer periods to hear and decide contested applications.

List members will be rotated as required to sit at hearings. Rotation will be influenced by such factors as availability, location of hearing, territorial locality of premises involved and any perceived or actual conflicts of interest.

REMUNERATION

As determined by the Minister of Justice in accordance with the Cabinet fees framework, a DLC Commissioner will receive remuneration at a rate of \$624.00 per day or \$78.00 per hour for part days. A Commissioner will also be reimbursed for reasonable expenses incurred in the discharge of duties associated with the position.

DURATION OF APPOINTMENT

The appointment will be for an initial period of three and a half years ending on 31 March 2030. The appointee may be re-appointed for one or more further terms of up to four years.

The Commissioner may resign from office at any time by written notice to the relevant territorial authority.

The territorial authority may at any time remove a list member of a DLC or a Commissioner appointed to a DLC for inability to perform the functions of office, bankruptcy, neglect of duty, or misconduct, proved to the territorial authority's satisfaction.

PERSON SPECIFICATION

A person can only be appointed as a Commissioner if that person is of good standing in the community and has the necessary knowledge, skill and experience relating to matters that are likely to come before the DLC.

Additionally, a person must not be a Commissioner if:

- a) the territorial authority believes that person has, directly or by virtue of his or her relationship with another person, such an involvement or appearance of involvement with the alcohol industry that he or she could not perform his or her duties without actual bias or the appearance of bias; or
- b) the person is a constable, a Medical Officer of Health, an inspector (Alcohol Licensing), or an

employee of the territorial authority.

Attached is the link to the LGNZ Guide to Selecting and Appointing District Licensing Committees, which sets out skills expected for a Commissioner:

https://www.alcohol.org.nz/sites/default/files/field/file_attachment/3.1_AL1168_Selecting_and_appointing_DLCs.pdf

IMPORTANT FUNCTIONAL RELATIONSHIPS

<i>Internal</i>	<i>External</i>
DLC Secretary	Licensing Inspectors
Other staff of the Eastern Bay District Councils	Police
	Medical Officers of Health representatives
	Fire and Emergency NZ
	ARLA

Summary of competencies expected for a DLC Commissioner Member:

Competency descriptor	Essential for the role	Desirable for the role
1. Knowledge, understanding or experience of:		
Te Tiriti o Waitangi/ Treaty of Waitangi – knowledge and understanding of the Treaty and its implications for decision-making	X	
2. Law and Legal Processes		
The law and its application (including the Act, case law and written decisions) – an understanding of law and how it is applied	X	
Judicial processes – Understanding or experience of judicial processes	X	
Natural Justice and its application – Must understand what natural justice is and how it is applied during hearings	X	
3. Understanding of the Sale and Supply of Alcohol Act 2012		
The object of the Act – clear understanding of the object of the Act	X	
Alcohol-related harm and its impact on communities – understand the nature of alcohol related harm, how it impacts communities and how it can be minimised	X	
The Act and its application – An understanding of the provisions of the Sale and Supply of Alcohol Act 2012	X	
Alcohol licensing (including local alcohol policies if relevant) – Thorough understanding or experience of alcohol licensing processes	X	
4. Hearings		
The purpose of hearings	X	
Hearing procedure (and the unique nature of DLC hearings procedure) – knowledge, skills and/or experience in hearings procedures generally, and DLC hearings in particular	X	
The nature of evidence – what does and do not constitute evidence, and how evidence differs from submissions	X	
Conflict of interests and bias and the appearance of conflict of interest or bias – understand the nature of conflicts of interest and bias, and can apply to their own situation	X	
Operating under rules of confidentiality	X	
5. Community Knowledge		
Understand the local community in which the DLC operates – Understanding the community demography, changes occurring, the environment in which a premise is or would operate, groups within the community who are vulnerable to alcohol related harm, and whose views are and are not being presented	X	
The local community's concerns and expectations around alcohol and alcohol-related harm	X	

The nature of the licensing environment and alcohol-related harm in the community in which the DLC operates – Understanding of the local licensing environment	X	
The local iwi, hapū and Māori communities – Understanding of the local Māori communities: their aspirations, their concerns and expectations about alcohol and alcohol-related harm	X	
Understand the cultural and ethnic make-up of the local community	X	
Working with community and community groups – previous experience or skills working with community groups that would be valuable to have on any DLC		X
6. Strong Communication and Teamwork Skills		
Oral communication – effective communicator with DLC members, staff and participant at hearings	X	
Listening and asking questions to gain understanding - active listener who can use questions to gain understanding	X	
Considering information from a variety of sources in an objective, unbiased way and being open-minded in reaching a conclusion	X	
Written communication – The Commissioner undertakes most written communication on behalf of the DLC so must have strong skills in this area.	X	
Facilitating good working relationships with other DLC members	X	
Computer literacy - emails, research (caselaw) and downloading, uploading and amending DLC documents and decision	X	
Te Reo and tikanga Māori – An understanding of te reo and tikanga to effectively run a hearing		X
7. Skilled in the Responsibilities of the Commissioner (Chair)		
Running hearings – Understanding of how a fair and effective hearing is run	X	
Writing clear and well thought-out decisions – well structures, logical and clear, outlines considerations of the DLC, refers to case law where relevant, and is legally sound	X	
8. Personal Qualities		
Willingness to upskill and develop new knowledge	X	
Willingness to make decisions (that may be unpopular) and be subject to media scrutiny and appeals to higher authorities such as ARLA and the High Court	X	