

Licensing, Exemptions and Objections Committee

Notice of Meeting

A meeting of the Licensing, Exemptions and Objections Committee will be held in the Council Chamber, Forum North, Whangarei on:

**Wednesday
10 August 2011
1.00 pm**

Committee of:
Council

Committee
Cr M R Williams (Chairperson)
His Worship the Mayor (Deputy Chair)
Cr S J Deeming
Cr S L Morgan
Cr J D T Williamson

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**Recommendations contained in this agenda are NOT final decisions.
Please refer to the minutes for resolutions.**

1. Minutes : Licensing, Exemptions and Objections Committee Wednesday 13 July 2011

Minutes of a meeting of the Licensing, Exemptions and Objections Committee held in the Council Chamber, Forum North, on Wednesday 13 July 2011 at 1.00 pm

Present:

Cr M R Williams (Chairperson)

Crs S J Deeming, S L Morgan and J D T Williamson

Absent::

His Worship the Mayor M C A Cutforth (leave of absence)

Also present:

Mr V Freakley (Director Whangarei Heads Enterprises)

In attendance:

Resource Consents Manager (A Hartstone), Development Contributions Co-ordinator (L Dahl), Environmental Planner (G Sands), Compliance Officer (K Hislop) and Senior Meeting Co-ordinator (C Brindle)

1. Confirmation of Minutes of a Meeting of the Licensing, Exemptions and Objections Committee held on 8 June 2011

Moved Cr Deeming
Seconded Cr Morgan

“That the minutes of the meeting of the Licensing, Exemptions and Objections Committee held on 8 June 2011, having been circulated, be taken as read and now confirmed and adopted as a true and correct record of proceedings of that meeting.”

CARRIED

2. Objection to Costs under section 357B of the Resource Management Act 1991; and Objection to Development Contributions Assessment – Whangarei Heads Enterprises Ltd

Moved Cr Deeming
Seconded Cr Morgan

“That following the hearing of the matters before the committee, the public be excluded from the meeting pursuant to section 48(1)(d) of the Local Government Official Information and Meetings Act to enable the committee to deliberate in private on the decisions made.”

CARRIED

The meeting closed at 1.19pm

Confirmed this 10th day of August 2011

Cr M R Williams (Chairperson)

2. 2010/11 Annual Report from the Whangarei District Licensing Agency to the Liquor Licensing Authority

Reporting officer Reiner Mussle (Team Leader: Environmental Health / Liquor Licensing)

Date 13 July 2011

Vision, Mission and Values

Creating the ultimate living environment.

Local Government Act 2002 – The Four Well-Beings

Cultural: No direct link

Economic: Information in the annual report of the Whangarei District Licensing Agency will assist the Liquor Licensing Authority to determine trends in liquor licensing matters.

Environmental: No direct link.

Social: No direct link.

Under Section 105 of the Sale of Liquor Act 1989, District Licensing Agencies must each year prepare and send to the Liquor Licensing Authority in Wellington a report of that Agency's proceedings and operations during that financial year. A draft report to the Liquor Licensing Authority is attached.

Recommendation

That the Whangarei District Licensing Agency adopts the draft report for the 12 month period ended 30 June 2011 and forwards it to the Liquor Licensing Authority.

Attachments

[Draft Whangarei District Licensing Agency report to the Liquor Licensing Authority](#)

Whangarei District Licensing Agency

Draft report for the 12 month period ended 30 June 2011

1 Overview of the Agency's Workload

Structure of Whangarei District Licensing Agency

The functions of the Agency are dealt with by Councils Licensing, Exemption and Objections Committee under delegated authority from Council, with functions further sub-delegated by the Licensing Exemptions and Objections Committee to the Agency Secretary. The determination of unopposed licence applications including new On, Off and Club Licences, grant and renewals of managers certificates, special licences and temporary authorities, waivers under s111 have been sub delegated to the Chief Executive Officer, Mr Mark Simpson as the Agency Secretary. These matters are dealt with on the papers. Opposed applications for which the Agency has authority to determine (special licenses, temporary authorities, applications under s134, etc) are dealt with by way of public hearing as and when required. The Agency members were as follows:

- Councillor M R Williams (Chairperson)
- Councillor S L Morgan
- Councillor J D T Williamson
- Councillor S L Deeming
- His Worship the Mayor M C A Cutforth.

Agency Staff

The Whangarei District Licensing Agency (DLA) has appointed Council Environmental Health Officers and the Regulatory Services Manager, as Licensing Inspectors.

The names of Licensing Inspectors currently appointed by the Agency are as follows:

- Grant Couchman, Regulatory Services Manager
- Reiner Mussle, Team Leader Environmental Health
- Maggie Wan, Environmental Health Officer
- Herath Kodisinghe, Environmental Health Officer
- Ketura Lambert, Environmental Health Officer.

Increase/Decrease in Business

There has been a slight (approximately 6%) decrease in the total number of applications received by the Agency during the year, compared with the 2009-2010 reporting period, (696 this year compared to 741 over the previous period). The decrease could be contributed to a decrease in the numbers of applications received for New Manager Certificates (168 last year – 149 this year) and new off-licences applications (decreased from seven last year to only two this year). A reduction in the number of renewal applications for off- & club-licences also contributed to the general decrease. However the decrease in the number of off- and club-licences renewal applications is clearly due to the annual variation in renewal patterns, which sees more renewals in one year and less in others. This renewal pattern also resulted in a substantial increase in renewals of on-licensed premises from 17 last year to 30 this year. The number of Special Licenses issued fell slightly from 247 last year to 222 this year. During the year there has been a 20% increase in the number of monitoring inspections conducted by Agency Inspectors compared to the previous year, in an aim to ensure better compliance with the Sale of Liquor Act 1989 provisions.

Meetings/Hearings/Other Business

The Whangarei DLA meets on an as and when required basis to determine opposed applications and other matters for which it has authority. Day to day determination of non opposed applications is undertaken through delegated authority to Councils Chief Executive Officer.

During the year the Liquor Licensing Authority (LLA) met and held a hearing in Whangarei on one occasion, determining a total of 10 opposed applications. Four of these applied to the Whangarei District and the remainder being brought by the Kaipara and Far North Agencies. Below follows a short summary of each application relating to the Whangarei district determined by the Authority:

- Application for Off-licence – Ruakaka Liquor Centre Limited.

The Agency received an application pursuant to s.31 of the Act for a new off-licence from “Ruakaka Liquor Centre Limited”, the new owners of an existing bottle store. The Liquor Licensing Inspector and initially Police opposed the application based upon s.35 of the Act, due to concerns about the applicant’s suitability, based upon the applicant’s involvement in and association with the previous owners of the business (Marsden Tavern Limited) which previously failed three Controlled Purchase Operations (CPO’s). The Authority in its decision (PH 90/2011) concluded that the applicant was not the same entity as Marsden Tavern Limited and therefore was satisfied that the applicant is suitable to hold an off-licence and granted the application.

- Application for Off-licence – Marsden Tavern Limited.

The Agency received an application pursuant to s.31 of the Act for a new off-licence from “Marsden Tavern Limited” for the “across-the-bar” off-sales from the Ruakaka Tavern. The applicant initially held an off-licence for the adjoining bottle store and the “across-the-bar” off-sales, but previously had to surrender the across-the-bar portion of their off-licence, as part of a redefinition to path the way for the selling of the bottle store part of the business. The Liquor Licensing Inspector and initially Police opposed the application based upon s.35 of the Act, due to concerns about the applicant’s suitability, based upon the applicant’s previous history and role in three failed Controlled Purchase Operations, while the applicant was the owner for the adjoining bottle store. The Authority in its decision (PH 245/2011) concluded that the application was made in order for the shareholders to separate their interest in the various parts of the business and not in order to clear their tainted name with regard to their failed CPO’s. The Authority was satisfied that the applicant is suitable to hold an off-licence and granted the application.

- Application for Renewal of On & Off-licences – Northland Breweries 2001 Limited.

The Agency received an application pursuant to s.18 and 41 of the Act for renewal of on- and off-licences in respect of premises known as Brauhaus-Frings. None of the relevant agencies opposed the application. However, in terms of s.44(2) of the Act it was necessary for the Authority to hear the application, as the application was objected by a local resident, based upon s.45 of the Act, which relates to the manner in which the licensee had conducted the sale of liquor pursuant to the on-licence. The objector raised concerns with regard to unacceptable noise generated from the licensed premises. The Authority in its decision (PH 102/2011) renewed the applications after the applicant gave an undertaking to provide the Agency with a Noise Management Plan and a report from an Acoustic Consultant by the 20th December 2011. The Authority also commented on the Agency’s (the Whangarei District Council) responsibility to enforce all provisions of District Plan as they pertain to noise and not only certain parts thereof. Therefore in future Council has to ensure that any noise measurements are to be taken from both the boundary of the property causing the noise nuisance and from the nearest affected residential property and not only at the nearest affected residential site, as was done in this instant.

- Application for suspension of General Manager’s Certificate and an application for renewal of the same – Rachel Kim Rawinia Heyder.

This matter deals with two applications. One made by Police for the suspension of General Manager’s Certificate under s.135 for being found guilty of driving with excess breath alcohol. This conduct shows that, on the day in question, Ms. Heyder was not suitable to hold a Manager’s Certificate. The second application was made under s.123 of the Act for the renewal of Ms. Heyder’s General Manager’s Certificate.

The application was made on the day of the hearing and facilitated the way for the Authority's decision (PH 251/2011), which found that Ms. Heyder (on the day of her driving with excess breath alcohol) was not suitable to hold a General Manger's Certificate. Taking all circumstances into consideration the Authority renewed Ms. Heyder's Certificate for a reduce one year period, which in essence now serves as a probationary period.

2 New Initiatives

Review of Whangarei District Liquor Licensing Policy

Council undertook a first principle review of the Whangarei District Liquor Licensing Policy last year and adopted a new policy in August 2010. As outlined in last years report to the Authority the policy provides for a number of initiatives but the most significant is the implementation of new licensing hours across the district at the conclusion of a 20 month sunset period. The new policy will generally restrict hours for the sale of alcohol on club- & on-licensed premises across the district to a period between 8.00am to 1.00am the following day with one exception. In the Whangarei Central Business District (CBD) on-licensed premises will be able to sell alcohol through to 3.00am where a one way door system is implemented at 1.00am. For off-licensed premises across the district the sale of alcohol is restricted to a period between 9.00am and 10.00 pm.

Implementation of the new policy hours will be achieved through the licence renewal process during the interim period leading up to the introduction of the policy hours at the end of December 2012. Where applications are made for renewal of On-, Off- and Club-licences and the hours currently held are greater than hours permitted under the new policy, then these renewals are "parked" until December 2012 (other than those attracting objection during the renewal process) when renewal will be determined taking into account the new licensing hours. This will bring about a uniform change over to new hours across the district and provide an equal playing field for businesses.

In adopting the policy, Council was mindful of the ongoing review of liquor licensing laws and believes that the policy will have synergy with the emerging direction in liquor licensing enforcement signalled by the Law Commission and the government.

Signing of a Memorandum of Understanding (MoU)

On 21st October 2010 the Whangarei Alcohol Monitoring Group consisting of representatives from the Whangarei District Council (WDC), Northland District Health Board (NDHB), Northland Police and Northland Fire Services signed a MoU to formalise a more streamlined, collaborative approach to the reduction of alcohol-related harm from in and around licensed venues in the Whangarei District Council area.

3 Enforcement and Inspections

Routine Monitoring

Whangarei District has a total of 205 liquor licensed premises, holding 220 licences. Licences were made up of 93 On-licenses, 69 Off-licenses and 58 Club-licenses. All premises have been inspected at least once during the year by licensing inspectors. A number of other special monitoring visits were made together with agency partners (Police/Health/Fire), after hours and on weekends. A total of 351 inspections of licensed premises have been carried out during the year, which represents a 20% increase from last year.

Targeted Monitoring

During the year the programme of monitoring visits, targeting high risk premises, at peak operating times continued. Team members from the Police, District Licensing Agency Inspectors, NZ Fire Service and Northland Health (District Health Board) meet monthly to determine an inspection programme targeting premises identified, as high risk. Visits are generally made after hours on Wednesday and Friday nights and on Saturday's by teams of two to four officers drawn from the four agencies. Any non-compliance issues are attended to in accordance with an agreed graduated response enforcement protocol, which is outlined in clause 21 of the Whangarei District Licensing Agency Policy.

Control Purchase Operations

The Police and District Health Board staff conducted various Controlled Purchase Operations in the Whangarei District during the year. Both on- and off-licensed premises were targeted. The off-licensed premises that were targeted included bottle stores, supermarkets and grocery stores. The on-licensed premises targeted included taverns, night clubs and restaurants. As the result of these operations a number of manager certificates have been suspended, by way of voluntary suspension. Applications were made by Police under s132 to suspend or cancel the on- and off-licences held by the following companies, which resulted in the Liquor Licensing Agency (LLA) suspending the on- & off-licences of these premises for the following period:

- NV & KJ Stead Limited trading as Super Liquor Kamo – Off-licence suspended for three days (from 8.00 am on Friday 15 April 2011 until 8.00am on Monday 18 April 2011) this was this licensee's third failure and suspension.
- Nicholas Richard Hampson – Duty manager for Super Liquor Kamo – Manager's Certificate suspended for six weeks (from Monday 18 April 2011)
- Market City Takapuna Limited trading as Grand Hotel – On-licence suspended for 48 hours (from 7.00am Thursday 10 March 2011).
- Wendy Joy Brooks – Duty manager for Grand Hotel - Manager's Certificate suspended for five weeks (from Monday 7 March 2011)
- Bacio 2006 Limited trading as Bacio – On-licence suspended for 24 hours (from 3.30pm on Friday 31 December 2010).
- Vanessa Findley – Duty Manager of Bacio - Manager's Certificate suspended for three weeks (from Friday 31 December 2010)

Other enforcement actions resulting in applications to the Authority

- During the year Police also negotiated a voluntary suspension of Michael William Laiman's, General Manager's Certificate under s.135 of the Act for being convicted of driving with excess breath alcohol. The Authority ratified this application in their decision (PH 512/2011) and suspended the Certificate for three weeks from Monday 18th July 2011.
- The Whangarei District Licensing Agency Inspector applied to the Authority for the voluntary suspension of an on-licence issued to Sorren and Son Limited, trading as Butter Factory and the establishment's duty manager, Sorren Lee Groshinski's, General Manager's Certificate due to the licensee / duty manager's failure with s. 164, 166, 167 and 171 provisions over a period of time. Accordingly the Authority in their decision (PH 1503-1504/2010) suspended the on-licence for 24 hours from 11.00am on Saturday 22 January 2011 and Sorren Lee Groshinski's General Manager's Certificate for three weeks from Monday 24 January 2011.

4 Liaison with Other Agency Groups

Whangarei Alcohol Accord

The Whangarei Alcohol Accord was formed in March 2002 and has membership drawn from Licensees, the Police, Northland District Health Board (NDHB), NZ Fire Service, Clubs NZ, Hospitality Association of New Zealand (HANZ), RoadSafe Northland, Whangarei District Licensing Agency (DLA), Accident Compensation Co-operation (ACC), and Spear Hospitality Training provider. The Whangarei District Council funds a co-ordinator to manage the business of the Accord. Linda Nash is the Accord Co-ordinator. Seven meetings took place over the year. Pertinent issues and initiatives delivered by the Accord during the year include:

- **The Host Responsibility Award**

This has now become a prestigious award and gained extensive media coverage this year.

Vinyl Bar and Restaurant won the on-licence award and Regent New World won the off-licence award this year. Funders were DB Breweries, ALAC, RoadSafe Northland, NDHB, Northland Chefs, licensees and Spear.

- **LCQ Bar Staff training for voluntary bar staff in sports clubs**

Funding is provided by Northland Road Safety Trust. This year the response was so overwhelming that additional funds were applied for to run another training course in the same financial year.

- **Frontline Staff Training**

A workshop was held on 9 July 2010 and another is planned for the next financial year to assist sports clubs to meet the demands expected from the Rugby World Cup (RWC). Presenters are from Police, Whangarei DLA, NDHB and Fire Service and are facilitated by the hospitality training provider, Spear. The workshop will focus on Sale of Liquor Act requirements in the club environment

- **“Dressing the Part”**

This is an ALAC funded ACC and Police initiative, supported by the Accord and held on different licensed premises for under 18's, giving youth the opportunity to experience the licensed environment and the expectations required by the Sale of Liquor Act.

- **Rugby World Cup**

RWC has been a major focus this year with licensees being updated on a regular basis. Two games will be held at the Northland Events Centre, 14 September 2011 Tonga v Canada and 21 September Tonga v Asia Qualifier. Three teams will be hosted in the Far North and Whangarei for a total of 28 nights. Dicken's Inn is the official 2011 Rugby World Cup Heineken Bar. Malbas and Parua Bay Tavern have taken on a bronze level of sponsorship which entitles them to advertise and screen Rugby World Cup games. Every premise employee whose primary function is door/crowd control now needs to be certificated under the Private Security Personnel and Private Investigators Act 2010

- **The Whangarei DLA Liquor Licensing Policy.**

The Whangarei DLA adopted a new liquor licensing policy in August 2010 which, amongst other things, will introduce standard operating hours across the district at the end of 2012. For a number of licensees this will mean a reduction in operating hours. Many licensees see this as an area of concern considering the current economic climate. Although licensees attended consultation meetings they feel that their input was not valued and this resulted in a fall in accord meeting attendance.

- **The Liquor Licensing Enforcement Response**

Guidelines remain in place as an agreed process which Whangarei enforcement agencies (Whangarei District Licensing Agency, Whangarei Police and Northland District Health Board) will use when undertaking enforcement action against licensees in respect of non compliance with the Sale of Liquor Act 1989.

- **False Identification**

False Identification's are an ongoing issue. Premise staff withhold Identifications believed to be fake and these are given to Police.

5 Northland Interagency Enforcement Focus Group

The Northland Interagency Enforcement Focus Group meets quarterly to discuss licensing issues with the aim of promoting consistency of enforcement in Northland. Group members include licensing inspectors from the three Northland Licensing Agencies (Far North, Kaipara and Whangarei), Police, Fire Service and Northland Health Ltd - Health Promotion staff.

6 Liquor Management Bylaw

The Whangarei Liquor Management Bylaw 2007, places a prohibition on the consumption, bringing and possession of liquor at all times in any public place in the central business district of Whangarei, and at all times in a number of coastal communities and other areas defined in schedules in the Bylaw. The Bylaw also applied the same restrictions on all beaches in the District and provides for the Chief Executive Officer to grant special dispensation to allow for special occasions and community events where alcohol is consumed on beaches, as part of that function. Police have requested that Council extend the liquor ban to specific suburban shopping centres and Council is currently engaged in preparing an amended by Bylaw which will go out for public consultation as part of the bylaw amendment process under the Local Government Act 2002. Police dealt with 279 liquor ban offences in the Whangarei central business district during the 12 month period from January to December 2010.

7 Statistical Information

Applications received and other matters processed during the year ending 30 June 2011

| Type | Number applications received |
|----------------------------------|------------------------------|
| On Licence – new | 16 |
| Off Licence – new | 2 |
| Club Licence – new | 0 |
| Managers – new | 149 |
| Managers – renewal | 220 |
| Temporary Authorities | 28 |
| Variations | 5 |
| On licence - renewal | 30 |
| Off licence - renewal | 13 |
| Club Licence - renewal | 11 |
| Redefinition of premises | 4 |
| Special Licenses | 222 |
| Inspections of Licensed premises | 351 |

M R Williams

CHAIRPERSON

Whangarei District Licensing Agency

TRIM: 11/59147