

14 August 2015

Alcohol Regulatory and Licensing Authority
Tribunals Unit
Private Bag 32 001
Featherston Street
Wellington 6146

Attention: Ms A Cannell

Christchurch City Council District Licensing Committee Annual Report to the Alcohol Licensing and Regulatory Authority for Period Ending 30 June 2015

1. Christchurch City Council District Licensing Committee Overview

District Licensing Committee Structure

The Council has 4 District Licensing Committees (DLC), each chaired by an appointed Commissioner. The appointed Commissioners are:

Paul Rogers
Al Lawn
Robin Wilson
Grant Buchanan

Council approved list of members is as follows:

Paul Rogers
Al Lawn
Robin Wilson
Grant Buchanan
David Blackwell
John Verry
Paul Buttell
Tanya Surrey

The Secretary of the District Licensing Committee

The Acting Chief Executive on 9 December 2013 determined sub-delegations under section 198 of the Act of various functions, powers and duties of The Secretary under the Act. These sub-delegations continue to be in place with identified delegations being made (severally) to named persons that sit in the Regulatory Compliance Unit (formerly known as the Investigations and Enforcement Unit) and also the Council Secretariat Unit. The Team Leader for Alcohol Licensing provides operational Secretarial support for the DLC.

Hearings and governance support for the DLC is provided by a Hearings Advisor who sits in the Council Secretariat Unit of Council.

Janet Anderson Hearings Advisor Ph: 03 941 8112

Christchurch City Council Alcohol Licensing Team Structure and Personnel Changes

The Unit that the team sits under in Council underwent a rebranding early in 2015, with a name change from the "Investigations and Enforcement Unit" to Regulatory Compliance Unit". The Alcohol Licensing Team consists of the persons named below; there have been three changes in the last 12 months.

Allison Houston Team Leader / Chief Licensing Inspector Ph: 03 941 8821
Martin Ferguson Senior Inspector Ph: 03 941 8956

Paul Spang	Inspector	Ph: 03 941 8826
Jenn Davison	Inspector	Ph: 03 941 8828
Anneke Lavery	Inspector	Ph: 03 941 6553
Natashia Lafituanai	Technical Assistant	Ph: 03 941 8827
Gina Moore	Technical Assistant	Ph: 03 941 8068
Karin Bathgate	Technical Assistant	Ph: 03 941 5470

Fax number: 03 941 5033

Email: alcohollicensing@ccc.govt.nz

Website: www.ccc.govt.nz/alcohol

Fiona Proudfoot moved out of the team in December 2014, from her role as Team Leader / Chief Licensing Inspector to become the Licensing and Compliance Manager. This role sits within the Regulatory Compliance Unit and is the direct report Manager for the Alcohol Licensing Team Leader. Allison Houston moved from her role as an Inspector to be permanently appointed as the Team Leader / Chief Licensing Inspector in March 2015. In June 2015 Anneke Lavery was appointed to a full-time role Inspector role.

Sale and Supply of Alcohol Act 2012 Staff Training

The Inspectors all attended the New Zealand Institute of Liquor Licensing Inspectors Conference in September 2014. Paul Spang is a member of the NZILLI Executive Committee. Two of the Christchurch inspectors made presentations at the conference.

In November 2014 the Inspectors attended a Regional District Licensing Groups - Tri-Agency forum and presented at this. This was attended by Tri-agency members from Christchurch, Waimakariri, Selwyn, Hurunui, Ashburton, Timaru and the West Coast. This forum was supported by the Health Promotion Agency (HPA).

In March 2015 the Inspectors also attended the regional forum in Christchurch "One year on: The Sale and Supply of Alcohol Act" run in conjunction with Alcohol Health Watch and the HPA. One of the Commissioners for Christchurch (who is also a commissioner for Selwyn, and Ashburton DLC's respectively) also presented.

District Licensing Committee Meetings or Hearings

The District Licensing Commissioners usually meet every Wednesday to allocate work, for both on the papers determinations and the setting of public hearings schedules, to determine Temporary Authority applications, and to discuss Christchurch DLC procedural matters. The chairing of public hearings has been systematically rotated amongst the Commissioners as has the inclusion of DLC members on the DLC panels for public hearings.

Since 1 July 2014 twelve District Licensing Committee public hearings have been convened. These have comprised 1 Special Licence application, 7 On-licence applications, 1 off licence application, 3 manager's certificate applications.

Two of the on-licence applications (both renewals) were adjourned part-heard (subject to DLC directions for actions to be undertaken) and were later reconvened and completed with a determination being given.

The Committee granted 6 applications and declined 3. Of the declined applications, one is currently subject to an appeal to ARLA and is awaiting hearing.

One further DLC application, granted by the DLC in June 2013, remains subject to appeal processes; ARLA determined the appeal in January 2015, this was appealed to the High Court and heard in June 2015. The High Court decision has yet to be finalised. This matter is related to legal interpretation of new provisions in the Act around single alcohol area requirements for Supermarkets/Grocery Stores.

The premises decisions which are subject to this appeal are Bond Markets Limited (Bishopdale New World) and J C Vaudrey Limited (South City New World).

A further three hearings (also on-licence renewal applications) were adjourned-part heard (also being subject to DLC directions) and are currently awaiting reconvening.

A total of 2943 decisions on unopposed applications determined on-the-papers (relating to new/renewed premises licences and managers certificates; special licences; and Temporary Authorities) have been granted.

Three DLC Chair's or Secretary Minutes (procedural directions) have been issued as guidance for the reporting agencies or parties to an application.

Noticeable Trends or Issues

The Committee continues to see a number of brand new premises with new operators resulting from rebuilding within areas of the Central City and suburbs. A number of premises closed since the earthquakes have also reopened following either repairs, rebuilding, or relocation to new permanent locations.

The city will continue to experience a prolonged period of rebuilding with the DLC continuing to be in a unique situation with the fluid environment resulting from the re-build. Rather than long-established areas of hospitality and substantive buildings, the nature of the environment is the establishment of new buildings and hospitality hubs, often changing the previous demographic.

The implementation of the new alcohol licensing regime from December 2013 significantly changed the regulatory processes associated with licensing decision making. This has substantially changed the requirement for information from applicants and their knowledge and understanding, in particular for the number of previous licensees now with the rebuild re-entering the industry under the new legislation. There has also been an increased focus on amenity and good order considerations and increasing community input into licence applications. A further impact on all reporting agencies is the requirement to provide more in-depth reports into all applications and support to applicant's to guide them through the new regime has increased, both through telephone/email, and in person.

To assist with this continuing changing environment all new operators and applicants for new premises licences have the opportunity to engage in early pre-application meetings and (now mandatory) lodgement meetings with inspectors. This service aims to ensure sufficiency of applications and to increase applicant understanding of the Act's obligations on the licensee and DLC licencing decision-making processes. This is a prevention first tool, where improved education and establishment of expectations at the first point of contact raises compliance levels across all licenced premises.

The number of Special Licence applications continues to be high. This reflects the loss of function venues across the City and is representative of a significant number of events being held on Club premises for non members. In 2014-15 there has also been a return of large sporting events being hosted in the city (including the ICC Cricket World Cup and the FIFA U20 World Cup) and a number of new larger sized music festivals and rebuild community events (from corporate boxing events to street festivals).

The Victoria Street precinct has continued to see growth of licensed premises in direct conflict to the wishes of the local residents. Residents' concerns centre around the late night, 3am, closure of many premises and the impact on good order and amenity to adjacent residential premises. Victoria Street has become a late night entertainment hub and there is considerable migration. There are currently 26 licences on Victoria Street. Public objections to the issue of new licences and the renewal of existing licences have resulted in one renewal hearing (currently adjourned part-heard and subject to DLC directions) before the DLC and a further three awaiting hearing.

New premises applications are trending towards permanent structures and premises locations, established where necessary through the Resource Consent processes in line with City Plan

requirements. Further additional central city precinct areas (with a number of premises with late-night, 3am, closing hours) that have developed over 2014-15, these include precinct clusters in the High Street; the Allen Street / Manchester Street area; and St Asaph Street, with currently 9, 12, and 8 licences respectively in these areas. New Regent Street has also regenerated with 7 current licences.

With the addition of more late-night premises in the St Asaph Street precinct area some of the late-night concerns raised previously for the Victoria Street are now emerging with this new precinct area. In particular the concerns centre around people migration, amenity and good order, and also transportation concerns (including those raised by reporting agencies) around late night traffic behaviour, both vehicular and pedestrian on a busy one-way road, and the sufficiency of late night taxi-stands for this area.

The number of current licences has continued to decline to 836, down from 870 in the previous year (a considerable reduction from the peak of 1149 in early February 2011). This year has continued to see a small number of licences, which had, in effect, been in limbo, expire at the end of their three yearly renewal period. The number of current manager's certificates held for the Christchurch DLC area remains steady at around 3450.

In the reporting period 11 opposed applications (under the 1989 Act) were heard by ARLA (for 5 premises licences and 6 managers certificates). These were the last of applications of this kind that were waiting determination. Of these two applications for premises licences were declined. Three enforcement applications (for two premises and one manager) required a public hearing before ARLA and resulted in suspensions being imposed.

The first related to the Authority decision [2014] NZARALA PH 511 in August 2014 for the application by Linwood Food Bar Limited for the premises trading as "Richey Bar". The application was for renewal of a "high risk" late night night-club style premises on-licence and an extension of closing hours was opposed by all three reporting agencies citing, concerns about the bars operation and the role of the director in the running of the bar. The application was also the subject of public objections. While the application was made under the 1989 Act regard also had to be had to the 2012 Act criteria for the issue of licences set out in s105 which includes amenity and good order criteria and also that the object in s4 of the new legislation to "minimisation of alcohol related harm, not merely its reduction". The Authority concluded that the applicant was "not a suitable applicant" and refused both applications and resulting in a one month notice of cancellation of the effect of the licence on 30 August 2014. This decision was subsequently appeal by the applicant to the High Court CIV-2014-409-000562 [2014] NZHC 2980 who declined the appeal in November 2014.

The second related to the Authority decision for the application by The Stables 2011 Limited [2015] NZARLA PH 368 issued on 29 June 2015 for the premises trading as "The Stables" which was an established business that had changed location. The new licence application was declined due to there being "no valid certificate confirming the property meets the requirements of the building code". Because of this the application had been outstanding for almost two years and the Inspector submitted that the Authority did not have authority to hear the substantive licence application and also noted suitability issues.

With the new fees regime now in its second year we will see further movement towards Council's costs associated with alcohol licensing activities being fully recovered, with some current continuing impact remaining with the reduction in licence numbers whilst Christchurch transitions through the re-build process. The remainder of premises licences and managers certificates last issued under the old fees regime will also be coming up for three yearly renewal under this new fees regime in the forthcoming year and should be cleared by December 2016. The Alcohol Licensing Team anticipate that the transition to a fully fee funded process is likely to be around 2016/17.

2. DLC Initiatives

Controlled Purchase Operations

There were three Controlled Purchase Operations (CPO) carried out during the year, resulting in 42 premises being visited. Two of the CPO's were conducted utilising minors. Of the 36 premises visited

three premises sold to a minor in breach of the Act resulting in those premises being referred to the Authority. The typical recommended suspension periods were for On-Licences: 24 hour suspension of the licence and 30 day suspension of the Manager's Certificate. The third CPO was of Club licensed premises, no sales were made for any of the six (working-men's clubs) visited.

Alcohol Accords for precinct areas

Work has been continuing with the hospitality industry and a number of other partners to strengthen the city-wide alcohol accord which was re-initiated in late 2013. This work continues to be driven within precinct cluster areas by the hospitality industry, as various parts of the city have unique issues in the current rebuild/reestablishment environment) and support a series of minimum standards which licensees must sign up to in order to become an accord member. Two significant hospitality areas, Victoria Street and Lincoln Road, have had accords in place since early 2014 with a further two accord being initiated in High Street and St Asaph Street areas since July 2014. The Victoria Street hospitality premises continue to work on developing a Street Safe programme to patrol public spaces which is fully funded by licensees. To link in with the City-wide and precinct Accord work, and as the central city area in particular establishes with late-night premises, planning is underway to progress a security provider accord and reinstate a city transport accord that was in place before the earthquakes.

Document Exchange

The Commissioners workloads continue to be managed via a secure cloud-based document exchange system. Committee work streams are established on a monthly basis, with the Commissioner accessing the relevant stream via the cloud. The Territorial Authority has found this to be a cost-efficient way of transferring large quantities of data in a timely manner.

3. Local Alcohol Policy

Christchurch City Council began the development of a Local Alcohol Policy under the Sale and Supply of Alcohol Act 2012 in early 2013.

Public consultation of the draft Local Alcohol Policy document was completed at the end of June 2013. Public Hearings were held in July 2013. Notification of the provisional LAP was deferred awaiting the outcome of appeals against other territorial authority policies. On 28 May 2015 Council approved notification of the Provisional LAP. Nineteen appeals were received by ARLA, and an additional nine people have been granted status to be heard at the appeal hearings. Council is currently awaiting a hearing date to be set down by ARLA to hear the appeals.

The DLC look forward to the final outcome of the LAP appeals process which is anticipated to provide guidance and a measure of certainty around some aspects alcohol licensing for all parties involved in the licencing application processes, including the local communities, and in DLC determination of licence applications in particular for the precinct area of Victoria Street.

4. Current legislation

We wish to raise the following matters, in addition to those noted in last year's report, as being of concern within the legislation and the supporting regulations:

s.37 BYO On Licence endorsement:

The current legislation refers to this type of licence being held by a business that carries the business as a restaurant (defined under the Act). However no reference is made to the activity persons must be present on the premises for consumption of BYO alcohol to be permitted. The previous legislation under section 28 made reference to BYO consumption of alcohol in the restaurant for "any person present for the purposes of dining". With the omission of this wording a potential risk arises that such premises could at times operate as a "place of resort". Clarity is needed around the intention of the BYO endorsement provision.

Unlicensed persons and unlicensed premises and "Place of Resort":

The enforcement provisions of s233-236 refer to the use of unlicensed premises (and people found on such premises) as a "place of resort for consumption of alcohol".

"Place of resort" is not defined in the interpretation section of the legislation. A definition would provide some measure of clarity for the public and regulatory agencies as to when this offence is applicable to unlicensed premises and public social settings/events and also for private functions and at what point an event may be considered an 'alcohol inclusive matter' where the requirement to hold a Special Licence applies. There has been no recent case law (i.e under the 2012 Act) applied in the current environment to assist clarification and application of this concept. Considerations surrounding this issue include intent of the sale/supply and whether it is ongoing and repetitive at a particular place and is the sole/primary activity – although this is not necessarily the main consideration.

s.112-115 Single Alcohol area condition for Supermarkets and Grocery stores:

The application of a single-area condition for the display and promotion of alcohol in supermarkets has resulted in significant amounts of all parties time being taken. Two Christchurch DLC decisions are currently the subject of what the Authority has referred to as "test" case appeals and are currently awaiting a High Court determination. The Inspectors and DLC look forward to authoritative case-law to provide guidance to all parties in the application of this aspect of the legislation.

s.136 Temporary Authorities and determination by a "Committee"

The legislation requires that Temporary Authorities are determined by a "Committee". Sections 189 and 191 identify the composition of a "Committee" and "Quorum" requirements. An exception to those quorum requirements is identified in s191(2) for the kind of applications listed under subsection (3) (for applications for a premises licence or manager's certificate). Where "no objection has been filed and no matters in opposition have been raised under sections 103, 129, or 141 the quorum necessary is 1 member who must be the chairperson". This quorum exception does not seem to apply to Temporary Authority applications. There is no indication in the legislation as to the reasons for this omission. In practice only two of the 120 Temporary Authority of applications have come before the Christchurch DLC in the 2014-15 reporting period have been the subject of an agency opposition (there are no public rights of objection for this type of application) and required a public hearing. The DLC suggest that an amendment be made to include a similar DLC quorum exception for Temporary Authorities.

s.102 Objections and s1052, 106, 131, and 142 Amenity and Good Order criteria and considerations

The DLC look forward to authoritative case-law to provide guidance to all parties to application processes, including community input on the locality concerns, for all types of licences (on, off, and club, and specials), around the application of amenity and good order considerations in determinations. This includes guidance around evidential onus, expectations, and thresholds for presentation on such matters at opposed hearings.

This criteria introduced with the 2012 Act has brought with it considerable additional uncertainty for some particular localities for applicants, reporting agencies, and communities who qualify to object to applications.

Part 2 Subpart 2- Local Alcohol Policy provisions

Under the LAP provisions, once a provisional LAP has been through the special consultative process and a Provisional LAP has been produced there are no specific powers or process given in the Act to address amending the LAP document where technical drafting errors identified later in the process before notification or before appeal processes.

5. Any other matters the TA wishes to draw to the attention of the Authority

Alcohol related Bylaws

Christchurch has the Christchurch City Council Alcohol Restrictions in Public Places Bylaw which came into force on 1 July 2009. There are currently twelve permanent Alcohol Ban Areas, the most recent areas came into force on 9 September 2012 in Papanui and Merivale.

A one-day temporary ban for Cup Day at Addington Raceway was successfully implemented in November 2013 and repeated again in November 2014. Processes are currently underway for a similar one-day temporary ban for an area around Riccarton Park Racecourse for the New Zealand Cup for November 2015.

Summary of Inspections undertaken of Licensed Premises

Inspection notes are recorded by all members of the Tri Agency Group within the secure shared website. There are now over 5000 monitoring/inspection notes on the shared website.

The Christchurch Licensing Inspectors, NZ Police, and Community and Public Health have maintained a strong working relationship as the Tri-Agency Group. This includes weekly meetings, controlled purchase operations and inter-agency monitoring teams. The Christchurch inspectors have also provided mentoring and support for other inspectors from neighbouring Territorial Authority areas within the wider Tri-Agency region.

The Tri-Agency Group continues to use the Licensed Premises Risk Matrix. This is maintained by the Alcohol Licensing Team and is shared electronically with the other agency groups, via a shared workspace. It is regularly reviewed and kept up-to-date in a collaborative manner.

The Christchurch Licensing Inspectors, NZ Police, and Community and Public Health have also worked together in the last year on an initiative to develop and implement an environmental scan methodology as an observational tool for reporting agencies. This has assisted the regulatory agencies in gaining a more informed overview of the environment outside and surrounding licenced premises in relation to people activity, behaviour, and good order and amenity considerations in various localities. The first such scan was conducted in Victoria Street.

The Christchurch Licensing Inspectors also continue to maintain a collaborative working relationship with other Christchurch City Council officers in relation to health licencing, environmental (noise), and other regulatory and compliance, building, planning and leasing areas that touch on alcohol licensing matters and considerations.

The Tri-Agency Group continues to collaboratively deliver education sessions for licensees, managers, and staff to assist and increase their understanding of the Act's obligations their responsibilities under their premises licence conditions. These sessions are delivered regularly at the invitation of institution providers for the Licence Controller Qualification (LCQ) in the Christchurch area (for which there are three main provider institutions). Onsite sessions are also provided for licenced premises at their invitation as a proactive and risk-based compliance strategy approach followed by the inspectors. Ten of these were conducted over the last year.

Liaison with other agencies and groups

The Christchurch Alcohol Licensing Team has also had regular contact with the Department of Internal Affairs, the Ministry for Business, Innovation and Enterprise (MBIE), ACC, Health Promotion Agency, Hospitality Standard Institute, and Hotel Association of NZ.

6. Statistical information

Please see attached.

Due to the change in reporting requirements and the fees regime with the new legislation some statistics have been marked with an asterix to identify where a number of applications were received under the previous fees regime but were still awaiting determination during the course of the current financial reporting year. In September 2015 the Alcohol Licensing register will be moving into a new records management system that will enhanced both financial and statistical reporting abilities.



Allison Houston

Team Leader Alcohol Licensing

Regulatory Compliance

On Behalf of the Secretary, Christchurch City Council District Licensing Committee

Appendix 1

TERRITORIAL AUTHORITY: Christchurch ANNUAL RETURN FOR YEAR ENDING: 30 June 2015

On-licence, off-licence and club licence applications received:

Application Type	Number received in fee category: Very Low	Number received in fee category: Low	Number received in fee category: Medium	Number received in fee category: High	Number received in fee category: Very High
On-licence new	3	42	40 (*1)	5	0
On-licence variation	0	3	3	1	0
On-licence renewal	3	70	74 (*1)	16	3
Off-licence new	0	1	18 (*3)	4	0
Off-licence variation	0	0	1	1	0
Off-licence renewal	0	9	20 (*1)	37 (1*)	0
Club licence new	0	1	0	0	0
Club licence variation	0	0	0	0	0
Club licence renewal	12 (*1)	4	4	0	0
Total number	18	130	160	64	3
Total Fee paid to ARLA (GST incl)	\$454.51	\$4761.75	\$8856.82	\$5560.51	\$517.50

(* indicates Application Fees for applications lodged under SOL and decision granted in the current reporting year)

Annual fees for existing licences received:

(Includes Annual fees for all new licences with decisions granted in the reporting year)

Licence Type	Number received in fee category: Very Low	Number received in fee category: Low	Number received in fee category: Medium	Number received in fee category: High	Number received in fee category: Very High
On-licence	14	144	150	37	3
Off-licence	4	16	49	60	0
Club licence	44	15	2	0	0
Total number	62	175	201	97	3
Total Fee paid to ARLA (GST incl)	\$1069.50	\$6037.50	\$10401.75	\$8280.00	\$517.50

Managers' certificate applications received and decisions issued:

	Number received
Manager's certificate new	587 (*6)
Manager's certificate renewal	737 (*8)
Total number	1324
Total Fee paid to ARLA (GST incl)	\$37,963.08
*Applications filed under SOL and decision granted in reporting year	

Special licence applications received and decisions issued:

	Number received in category: Class 1	Number received in category: Class 2	Number received in category: Class 3
Special licence	71	266	692

Temporary authority applications received and decisions issued:

	Number received
Temporary authority	96

Permanent club charter payments received and decisions issued:

	Number received
Permanent club charter payments	2