

The Right Mix: Provisional Local Alcohol Policy Contents

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1 Introduction

The adoption of the Sale and Supply of Alcohol Act 2012 gave councils the power to develop local alcohol policies. This is part of wider reform of the way alcohol is sold, supplied and consumed in New Zealand.

The purpose of this Policy is to give communities greater control over when, where and how alcohol is sold in Wellington City.

Sale and Supply of Alcohol Act 2012

Purpose:

a) To the benefit of the community as a whole by putting in place a new system of control over the sale and supply of alcohol, that is reasonable and the administration of which helps to achieve the object of the Act.

b) To reform more generally the law relating to the sale, supply and consumption of alcohol so that its effect and administration help to achieve the object of the Act.

Object

(1)The object of this Act 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.
- (2) For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—
- (a) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
 - (b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).

An alcohol licence is required to sell alcohol to the public. Applications for alcohol licences must be filed with the relevant District Licensing Committee in the area where the premises concerned is located.

Each territorial authority must appoint one or more licensing committees, as required, to deal with licensing matters for its district, to be known as the District Licensing Committee.

2 Definitions

Liquor Licences

There are four kinds of liquor licences:

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On-licence

Licensed for the sale and supply of alcohol on the premises and can permit alcohol to be consumed on the premises.

BYO-endorsed

Licensed for the consumption of alcohol to anyone who is on the premises for dining.

Caterers-endorsed

In addition to the definition above for on licences, a caterer can also deliver alcohol from their premises and sell it on any other premises for consumption there by people attending a reception, function or other social gathering.

Off-licence

Licensed for the sale of alcohol from the premises for consumption elsewhere.

Licensed for the sale of alcohol on or from the premises for delivery elsewhere.

Also permitted to supply alcohol free, as a sample, for consumption on the premises.

Remote sales-endorsed

Licensed for the sale of alcohol on or from the premises for delivery elsewhere.

Auctioneers-endorsed

Licensed to sell alcohol by auction.

Club licence

Licensed for the sale and supply of alcohol to customers who are members, invited guests or visitors to the club concerned.

Special licence:

On-site special licence

Licensed for the sale or supply of alcohol for consumption there, to people attending an event described on the licence.

Off-site special licence

Licensed for the sale of alcohol, for consumption elsewhere. The licensee is also able to supply alcohol free, as a sample, for consumption on the premises.

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Other definitions

Alcohol-related harm

Defined as, the harm caused by the excessive or inappropriate consumption of alcohol, including:

(a) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and

(b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in (a).

Airport bar

Means premises that:

(a) are within or attached to an airport; and

(b) used or intended to be used in the course of business principally for selling or supplying alcohol to air travellers arriving at or departing from the airport.

Bar

In relation to a hotel or tavern, means a part of the hotel or tavern used principally or exclusively for the sale or consumption of alcohol.

Bottle store

A shop where at least 85 percent of the annual sales revenue is expected to be earned from the sale of alcohol for consumption elsewhere.

Brothel

Any premises kept or habitually used for the purposes of prostitution; but does not include premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.

Central area

The area defined by the District Plan for Wellington. By default the term "Suburbs and Rural area" includes all other areas defined by the District Plan (including inner residential, outer residential and suburban centres).

Club

Means a body that is a body corporate that participates in or promotes a sport or other recreational activity, otherwise than for gain; or is a body corporate whose

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object is not (or none of whose objects is) gain; or holds a permanent club charter.

Community trust

Means a trust established under section 357 of the Sale and Supply of Alcohol Act 2012 or section 219G of the Sale of Liquor Act 1989; or resulting from the amalgamation of two or more community trusts under section 385 of the Sale and Supply of Alcohol Act 2012 or section 219Z of the Sale of Liquor Act 1989.

Conveyance

a) means an aircraft, coach, ferry, hovercraft, ship, train, or other vehicle, used to transport people; and
(b) includes part of a conveyance.

Entertainment venue

Means premises used or intended to be used in the course of business principally for providing any performance or activity (not alcohol-related) designed to engage an audience, such as but not limited to:

- theatre
- cinema
- bowling
- pool/snooker/billiards hall
- brothel
- function centre
- live entertainment venue
- night club
- strip club.

Inspector/Licence inspector

Means an inspector appointed under section 197(1) of the Sale and Supply of Alcohol Act 2012.

Large scale event

An event with more than 3,000 attendees per day or more than 1,000 attendees per day where alcohol is the primary focus.

Late trading

Trading past 3am.

Management

Means the day-to-day running of a venue, location or conveyance, which may involve the licensee, general manager, managers or staff members, and may also mean in a collective sense those people who are responsible for the day-to-day running of a venue, location or conveyance.

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Prohibited people

People who are under the age of 18 or who are intoxicated.

Restaurant/Café

Means premises that are not a conveyance; and are used or intended to be used principally for supplying meals to the public for eating on the premises.

Restricted area

Designated part of licensed premises to which people under 18 may not be admitted.

Risk

In this document, risk relates to factors that influence the extent of harm created from the sale, supply and/or consumption of alcohol.

Secretary of the District Licensing Committee

The title applied to the principal administrative officer of the local authority by the Sale and Supply of Alcohol Act 2012.

Secretariat

Wellington City Council staff performing administrative functions for the Secretary of the District Licensing Committee.

Sensitive facility

Educational or recreational facility or open space used by, or likely to attract young people under the legal purchase age; community and/or health facility.

Southern Zone

Designated zone in the South of the city that is subject to particular conditions within this Policy – refer to Map 2 page 22.

Supermarket/Grocery store

Means a shop that has the characteristics normally associated with shops of the kind commonly thought of as grocery shops such as but not limited to size, annual sales revenue, product range; and comprises premises where a range of food products and other household items are sold; but the principal business carried on is or will be the sale of food products.

Supervised area

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Designated part of licensed premises to which people under 18 may not be admitted unless accompanied by a parent or guardian.

Tavern/Pub/Bar

Means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but does not include an airport bar.

Temporary activity

For the purposes of obtaining a special liquor licence, is defined as constituting up to six activities per calendar year requiring licence approval, on each site, under club and, in some cases, special licences. More than six activities are considered repetitive in nature and may require resource consent approval.

Temporary authority

Means temporary authority (or permission) to operate under an existing licence. A temporary authority is applied for when a business is sold and a new licensee would like to commence trading before their own licence application is considered or granted. The holder of a temporary authority is subject to all of the conditions found on the base licence and any the District Licensing Committee has specified in the temporary authority itself.

The Act

The Sale and Supply of Alcohol Act 2012.

The Policy

The Right Mix: Wellington City Council's Local Alcohol Policy.

Acronyms

ARLA

Alcohol Regulatory Licensing Authority

DLC

District Licensing Committee

HPA

Health Promotion Agency

MoH

Medical Officer of Health

LAP

Local Alcohol Policy

3 Background

Wellington City Council has been guided by an alcohol licensing policy since 1993, most recently reviewed in 2003.

In 2009, the Law Commission undertook a broad and comprehensive review of the role of alcohol in New Zealand. The Commission's 2010 report to Parliament, 'Alcohol in our Lives: Curbing the Harm', signalled significant changes to the sale and supply of liquor. The Government responded with the Sale and Supply of Alcohol Act 2012.

Finding a balance between the needs of the community and the entertainment/recreation market is not always easy. Wellington City is the main entertainment destination for the region, and the restaurants, bars and clubs provide life and vitality to many parts of the city. However, excessive alcohol consumption and alcohol related harm threaten residential amenities and the economic vitality of the city. Where this occurs, or there is the potential for it to occur, the Council in its role as the District Licensing Committee (DLC) will act to protect the health of the community as required under the Act.

This Policy is an updated approach to alcohol management in Wellington City. It provides guidance to decision-makers in applying the Act and any amendments that may come in the future.

4 The impact of alcohol on Wellington City

Wellington City has a different pattern of alcohol consumption to the rest of New Zealand.

Wellington City is a nationally significant entertainment destination...

Figures from Positively Wellington Tourism show that domestic visitors contribute \$557 million to the Wellington economy. The city's entertainment offerings, accompanied by the availability of alcohol, support Wellington's position as one of New Zealand's most popular domestic tourism destinations.

So a greater proportion of our drinking takes place in public...

Figures from ACC show that Wellington has 26 on-licences (bars and restaurants) per 10,000 people compared to 18 per 10,000 people for the rest of New Zealand.

Much of this is happening in the central city...

Figures from the District Licensing Agency show that 71 percent of all alcohol licences are issued in the Lambton Ward with 79 percent of these being bars, night clubs and restaurants.

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It means we have an active late-night economy...

Figures from Hospitality New Zealand show that electronic card transactions in the Wellington region between 4–7am total \$33m per year – 22 percent of all late-night transactions nationally.

But there is a skewed activity mix...

Figures from the District Licensing Agency show that of the 31 licences operating later than 3am (excluding hotels and the airport), 21 are classified as taverns.

And there is more harm generated as the night goes on...

Figures from the Police show that nationally the predicted rate of alcohol-related offending doubles between 1–2am, doubles again between 2–3am, and doubles again between 3–5am.

Alcohol-related harm is also greater for young men...

Figures from Regional Public Health show that males aged 15–29 comprise 37 percent of all alcohol-related presentations at Wellington Hospital's emergency department.

Especially for young men who live in the south of the city...

Figures from Regional Public Health show males aged 15–29 living in the south of the city, from Mt Cook to Island Bay, have alcohol-related presentation rates that are more than double the average for this age group.

But alcohol consumption is not limited to young people...

Figures from a recent survey of 1000 residents in Wellington show that 94 percent of respondents consume alcohol and 63 percent said they do so at least once a week.

Yet we are concerned that alcohol consumption does more harm than good...

Figures from the same survey show that 50 percent of respondents thought the harm caused by alcohol outweighs the benefits. Only 19 percent thought the benefits outweigh the harm.

5 Strategic setting

The Council has both an interest in and responsibility for alcohol management in Wellington City. This stems from the statutory requirements for liquor licensing and our responsibility for public places, as well as promoting the city's development through our Wellington Towards 2040: Smart Capital vision.

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Smart Capital has two goals that are particularly relevant to this Policy:

Dynamic Central City – The central city will be a vibrant and creative place, helping Wellington to offer the lifestyle, entertainment and amenity of a much bigger city. The CBD will continue to drive the regional economy.

People-centred City – Wellington’s people-centred city will be healthy, vibrant, affordable and resilient, with a strong sense of identity and ‘place’ expressed through urban form, openness and accessibility for its current and future populations.

There is an overlap between these strategic goals and the Sale and Supply of Alcohol Act 2012.

For the central city, this means:

- supporting a city rhythm – transitioning the city through:
 - daytime – commerce
 - evening – entertainment
 - late night – bars and clubs, more evening entertainment
 - morning – sleep, city regeneration: cleaning and rest.
- promoting a dynamic night-time economy – with well-managed and designed pockets of vibrancy that offer a balanced mix of alcohol and non-alcohol trading activity
- creating a safe and welcoming city – where risks are effectively managed and inner-city residents are involved in decisions about alcohol availability
- building an accessible city – where people can safely and easily move into and out of the central city and between different locations within the central city.

For the suburbs, this means:

- supporting vibrant town centres and suburban hubs that provide appropriate spaces for economic activity, socialising and community activity
- supporting local amenity – ensuring there are pleasant and agreeable places to live alongside vibrant suburban centres that are created through greater regulation of the sale of alcohol compared to the central city.

The Council’s Alcohol Management Strategy provides a broader context for our Local Alcohol Policy. The strategy takes a wider view of alcohol and alcohol-related behaviour, how alcohol can contribute to our aspirations for a dynamic central city with vibrant suburban centres, and how we can all play a part in reducing alcohol-related harm.

The outcomes sought by the strategy are:

- **reduced harm:** a reduction in the amount of harm caused by the excessive consumption of alcohol and drinking in public places and in vandalism
- **increased vibrancy:** an increase in late-night activity in the central city with less emphasis on alcohol consumption

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- **improved amenity:** an improvement in suburban, inner-city and open space amenity
- **greater personal responsibility:** an increase in the safe and responsible consumption of alcohol
- **greater collaboration:** more shared responses to alcohol-related issues from licensees, local and central government, and community organisations.

These outcomes contribute to the achievement of our Wellington Towards 2040: Smart Capital vision by striking the right balance between promoting a dynamic central city with vibrant suburban centres and achieving a discernible reduction in alcohol-related harm.

6 Aim of the Policy

This Policy aims to deliver a safe and responsible drinking environment where the harm caused by the excessive or inappropriate consumption of alcohol is minimised.

It provides a framework for decision-making on the sale of alcohol in Wellington City, and is focused on achieving and maintaining the right mix of alcohol-related activity to support the objectives set out in the Alcohol Management Strategy.

The Policy reflects the purpose of the Act, which is for the benefit of the community as a whole. It combines community expectations about how alcohol is made available to the public and legislative requirements governing generally accepted norms of behaviour. This Policy allows the Council to fine-tune the application of the Act through its own activities and those of the Alcohol Regulatory and Licensing Authority (ARLA), to better meet the needs of our communities.

The object of the Act is to ensure the sale, supply and consumption of alcohol is undertaken safely and responsibly; and that the harm caused by the excessive or inappropriate consumption of alcohol is minimised. This Policy is designed to assist the Council in meeting its obligations under the Act.

The Act requires the Council to undertake the role of District Licensing Committee (DLC). In this Policy, DLC refers to a function of the Council and not a separate body. The term “Council” refers to the whole of the Council where other functions (such as noise control or District Plan compliance) may be relevant to the management of the sale and supply of alcohol.

The DLC’s role is to exercise its jurisdiction, powers and discretions under the Act in such a way that is most likely to promote the object of the Act. An important part of this is the DLC acting on behalf of the community and making decisions that reflect the particular needs of Wellington City as expressed through this Policy.

The Policy takes a location-based approach to the application of trading hours and licence conditions. It also distinguishes by kind of licence and further by

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type of premises to assist in the application of trading conditions to further the object of the Act and the Council's own strategic goals.

The Policy will inform the decisions of the DLC on liquor licences for the sale of alcohol in Wellington.

7 Policy principles

The following principles guide the DLC's administration of alcohol licensing:

1. Meeting the object of the Act

The object of the Sale and Supply of Alcohol Act 2012 is that the sale, supply and consumption of alcohol should be undertaken safely and responsibly, and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

Principle: *All Council actions will be consistent with the Act.*

2. Effective risk management

There are recognised risk factors that influence the extent of harm created from the sale of alcohol. The Policy identifies and addresses these factors to create an environment that actively manages those risks.

Principle: *All Council decisions will evaluate the level of risk an existing or new licensee poses when determining the trading conditions under which a licence may be granted.*

3. Incentivising best practice in reducing alcohol harm

The Policy supports quality operators and opens up trading opportunities for businesses that manage alcohol-related harm well.

Principle: *Licensees that manage risk well will be eligible for late trading hours.*

4. Late-night trading – a privilege, not a right

Alcohol-related harm in Wellington City markedly increases after midnight, highlighting that late-trading activity presents a greater risk to the community. The Policy ensures licensees who are afforded extended late-night trading hours (trading after 3am) are capable of minimising risk.

Principle: *Licensees seeking to trade beyond 3am will need to demonstrate the highest standards across all evaluation criteria.*

5. Activity mix

Safer drinking environments are characterised by a diverse range of activity where the focus is shifted away from the consumption of alcohol as the primary

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activity. To strike an acceptable balance between retaining pockets of vibrancy (particularly in the central city) and reducing harm, the Policy will allow a change in the mix of activity in at-risk locations and trading times by granting licences to operators who can clearly demonstrate that the consumption of alcohol is ancillary to providing another activity or service.

Principle: *Licensees intending to apply for late trading hours, who can demonstrate a greater emphasis on activity which is not principally the consumption of alcohol, will be prioritised.*

6. Alcohol will be managed differently in different parts of the city

Confining activity at high-risk times to the central area enables a targeting of resources, closer monitoring and enforcement and, alongside the application of specific conditions, will improve alcohol and patron management to help ensure the safety of both individuals and the community.

Principle: *Late-trading activity will be restricted to the central area.*

7. Alcohol is not always an appropriate accompaniment

There are some occasions and events in the city where alcohol is not considered an appropriate accompaniment.

Principle: *The sale and supply of alcohol for on-site consumption is not an appropriate activity at youth focused occasions or events, or those likely to attract people under the legal purchase age. The DLC will look closely at the appropriateness of licensing the on-site sale and supply of alcohol at such events.*

8. Transparency

It is considered important that the DLC's position on the sale and supply of alcohol in Wellington City is clearly stated. This will allow the public and applicants to clearly see how applications are evaluated and how (using the assessment criteria) decisions are made.

Principle: *All decisions will be made in line with the Act and any amendments, with this Policy and any related procedures.*

9. Community involvement

The Policy describes the opportunities that are available for public participation in the DLC's decision-making process. This is partly through consultation on the Policy itself but mainly through the public notification/objection process.

Principle: *The DLC will endeavour to address community concerns and issues where this is consistent with the purpose of the Act and the Policy.*

10. Fairness

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The DLC will promote a balance between the expectations of the wider community and owners/management/users of licensed premises.

Principle: *The application of this Policy is not intended to restrict or reduce existing licence conditions, except where explicitly stated.*

Note: While the Policy will not be applied retrospectively, it should be noted that assessment of new and renewal applications against stated criteria and the monitoring and enforcement actions, may result in the application of certain conditions and, in the case of renewal applications, the variation of existing licence conditions.

Principle: *Operations assessed as carrying a greater risk, and therefore requiring greater monitoring, enforcement or both, will attract additional operating conditions.*

Note: Councils currently have no ability to set fees. This may change with the publishing of regulations for the Sale and Supply of Alcohol Act 2012.

11. Conflict resolution

The sale of alcohol is clearly an issue for potential conflict. Parties to this potential conflict include commercial operators, local residents, customers/patrons and social services. All parties have rights and obligations.

Principle: *Licence inspectors will make all reasonable attempts to resolve issues or points of conflict before recourse to legal measures.*

8 Risk management framework

An applicant is in the best position to manage any risk associated with the type of activity they are, or intending, to undertake. On application or renewal of a licence the overall suitability of all elements of the activity in relation to the effect on the community through the sale and supply of alcohol, is assessed against criteria set out in the Act and this Policy. Following this assessment, the licensee's risk profile is classified as low, medium or high risk.

The assessment criteria are such that an applicant with an inherently high-risk profile will be capable of lowering this by investing in their business and supporting best practice. A licensee's risk profile will affect the types of conditions that may be applied to the licence.

The Act permits the total costs of the licensing process undertaken by councils to be recovered. Wellington City Council believes the fees charged should be targeted and proportionate to the risk posed, so that the management of those risks is properly funded. At the timing of writing, the regulations for how councils set fees have not been published.

8.1 Limits on hours of operation

Limits by licence Kind (general and otherwise)

On-licence and club licence

From a regulatory perspective, on-licence and club-licence premises are characterised by their ability to provide a controlled environment for the consumption of alcohol. Limits on the hours of operation and the application of discretionary conditions for on-licence and club-licence premises will be applied where this is considered a reasonable response to evidence of alcohol-related harm.

Off-licence

The fundamental difference between on- or club-licence activity and off-licence premises is that there is no ability to control the consumption of alcohol purchased once it is taken off the premises. Limits on the hours of operation for off-licence premises help to constrain access to alcohol where that access is more likely to contribute to alcohol abuse and unsafe public environments.

Special licence

Special licences are used to control the sale and supply of liquor for events or social gatherings where an on-, off- or club licence is not in force or appropriate.

The sale and supply of alcohol for on-site consumption is not an appropriate activity at youth-focused occasions or events, or at those likely to attract people under the legal purchase age. The DLC will look closely at the appropriateness of licensing for the on-site sale and supply of alcohol at such events.

The activity for which a special licence is being sought must be outside the regular activities of an on-, off- or club-licensed premises and not of a regular nature such that an on-, off- or club licence should be applied for. Where a series of events or social gatherings is being considered, there must be specific start and finish times.

Number of events that can be applied for on any one special licence application form

Up to 12 events or social gatherings per special licence application may be applied for.

Special licences will only be granted for up to 24 events or social gatherings per calendar year, that:

- occur at the same venue and/or
- are the same in character and/or
- are applied for by the same applicant

unless an increase in numbers can be justified to the DLC.

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Additional requirements for large-scale events

Large-scale events are inherently higher-risk activities where the sale, supply and consumption of alcohol is concerned. If in the opinion of the DLC an application for a special licence relates to a large-scale event, the Committee must:

- require the applicant to provide a management plan describing how that applicant proposes to deal with matters such as security, monitoring, interaction with local residents, and public health concerns
- require the applicant to provide a certificate by the territorial authority that the proposed use for the premises meets the requirements of the Resource Management Act 1991 and of the building code
- require the applicant to work with the Police, the territorial authority, and public health agencies on planning for the event.

Limits on hours of operation (general and otherwise)

The Act allows for local alcohol policies to set maximum trading hours; apply different hours to different areas of the city; and to apply different hours to premises that hold or have applied for licences of different kinds.

Note: *This Policy will be applied on the issue of new licences and on the renewal of existing licences, with the exception of maximum trading hours for hotels serving lodgers, which take effect from the time the Policy is operative.*

In addition to a location-based approach to the application of trading hours, the Policy will also distinguish by kind of licence and (as required) by type of premises in applying trading conditions. This will help to create a change in the mix of trading activity in particular areas of the city.

The three areas or zones subject to specific trading conditions are:

Zone 1 – Central Area – where the overriding priorities are to ensure the city has broad appeal through a diverse range of activities, accessibility and a welcoming, safe area

Zone 2 – Southern Zone – identified as an area over-represented in alcohol-related harm data, where the overriding priority is to reduce harm

Zone 3 – Suburban Areas – where the overriding priority is to ensure the locality is a pleasant and agreeable place to live alongside vibrant suburban centres.

The management of alcohol in each of the above zones is based on a mix of District Plan objectives, location-specific, alcohol-related harm data, international best practice and changing the mix of trading activity.

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Map 1: Central Area Zone boundaries



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Maximum trading hours

The hours listed in the table below represent maximum limits. In determining appropriate trading hours conditions for a licence, all applications will be evaluated on merit as to how they satisfy relevant criteria in the Act and in this Policy.

Licence kind	Central area	Suburban centre	Southern zone
ON*	7- 5am the following day	7am - 1am the following day	7am - 1am the following day
ON Conveyance	7– 3am the following day when the conveyance is in service		
ON Caterers	<i>At any time on any day during the provision of catering services</i>		
ON Hotels*	At any time on any day to lodgers		
ON Airport Bar	At any time on any day		
ON Brothels	At any time on any day		
OFF*	7am-11pm		
OFF Remote	<i>At any time on any day</i>		
CLUB	8-1am the following day		
SPECIAL	<i>No limits – applications assessed on merit</i>		

On-licence

- Licensed beyond 3am are subject to compulsory conditions (refer to Section 11)
- Across-the-bar sales are subject to off-licence limits.
- Trading on Good Friday, Easter Sunday and Christmas Day, or before 1pm on Anzac Day, limited to lodgers and diners or the holder of a special licence.

Off-licence

- No trading is permitted on Good Friday, Easter Sunday and Christmas Day, or before 1pm on Anzac Day, unless it is grape wine or fruit or vegetable wine made or produced on the premises, or classed as a remote sale.

Hotels

- For any bar facilities that cater to the general public, hotels are subject to on-licence maximum trading-hour restrictions.
- Mini bars in hotel rooms and tourist houses will be exempt from the above limits where it can be established that accommodation is the principal activity. This recognises that where mini bars are situated in rooms, it is unrealistic to prevent consumption outside set hours.

8.2 Density and proximity

Density

Residents in Wellington have voiced concerns around the number and location of licensed premises in their communities. These concerns are not unfounded, there is a correlation between outlet density and alcohol-related harm and further, for each type of outlet, there is a clear association between outlet numbers and the level of harm due to drinking.

The Policy will deal with the issue of managing outlet density in the following manner:

- all new applications for premises assessed as high-risk and located in the Central Area or Southern Zone will be required to be dealt with by way of public hearing
- in all other cases where public opposition is lodged to the issue or renewal of a licence, and density or proximity is raised, the matter will be dealt with by way of public hearing.

In all cases, density is an issue considered by licensing inspectors when reporting on applications to the DLC.

Note: If no reporting agency, member of the public or applicant registers an interest to be heard, the DLC has the discretion to cancel a hearing.

Proximity

Community concerns, particularly in suburban locations, are focused on the proximity of licensed premises to each other and community sensitive facilities such as parks and playgrounds; educational facilities such as schools, crèches and play centres; community and/or health facilities.

Any licence application (new or renewal) for premises neighbouring or adjacent to a sensitive facility in the Southern Zone or Central Area should be considered by the broader community. In all other cases, new or renewal applications for high-risk licensed premises deemed to be in close proximity (within 100 metres) to sensitive facilities or another high-risk premise, will be closely reviewed.

Community concerns are focused on the concentration of high-risk premises and the mix of late-night activity, and the potential impact these may have on residential activities in the vicinity. Any high-risk licensed premises proposed in the Central Area seeking late-trading hours should be considered by the broader community.

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The Policy will manage proximity in the following manner:

Dealt with by way of public hearing:

- **High to medium risk in the Southern Zone**
Any application (new and renewal) for premises assessed as high to medium risk and located in the Southern Zone, and found to be within close proximity of another licensed premise and/or a sensitive facility, will be required to be dealt with by way of public hearing.
- **Any level of risk that neighbours or is adjacent to a sensitive facility**
Any licence application (new or renewal) for premises neighbouring or adjacent to a sensitive facility will be determined by way of public hearing.
- **High risk in the Central Area**
All new applications for premises assessed as high risk and located in the Central Area, and found to be within close proximity of another licensed premise and/or a sensitive facility, will be required to be dealt with by way of public hearing.
- **Any application that receives public opposition**
In all other cases where public opposition is lodged to the issue or renewal of a licence and density or proximity is raised, the matter will be dealt with by way of public hearing.

Inspector review and recommendation:

- Any application to licence or renew a licence for premises deemed high to medium risk, and within close proximity to a sensitive facility and/or other high to medium-risk premises, will include a recommendation from a licence inspector on any issues associated with proximity, and how these could be resolved by the DLC ie by way of public hearing and/or the application of certain conditions.

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In cases of proposed premises, the DLC has the discretion to refuse the issue of a licence based on proximity (in the case of premises in the Central Area this refusal may relate to the appropriate concentration and mix of licensed premises by type), or impose conditions to address issues raised in relation to the operation of the licence.

In cases where proximity is being considered in reference to the renewal of existing licenses, the DLC will focus on the application of conditions to address issues raised in relation to the continued operation of the licence, unless there are sufficient grounds to warrant variation or cancellation of the licence.

Note: If no reporting agency, member of the public or applicant registers an interest to be heard, the DLC has the discretion to cancel a hearing.

Note: In all cases where an automatic hearing is triggered, a copy of the application will be forwarded to relevant residents associations and any sensitive facilities identified by the reporting inspector.

8.3 Discretionary conditions

Section 117(1) of the Act also permits a DLC to issue any licence subject to any reasonable conditions not inconsistent with the Act. In using its discretion to apply conditions, the DLC will be guided by the following:

- connection – whether there is a connection between the problem to be addressed and the proposed activity
- impact – whether there is evidence to support that the proposed condition will make the drinking environment safer and minimise harm
- reasonableness – whether it is within the capabilities of the applicant or licensee to satisfy this condition.

Late -night trading and off-licence conditions in the Central Area and Southern Zone

The Policy identifies the Central Area as being suitable for late-trading activity in order to create:

- well-managed pockets of vibrancy whose overall effect is to minimise harm
- recognise and support growth in the night time economy in a way that achieves a better mix of activity
- promote quality over quantity to ensure the safe and responsible consumption of alcohol.

On-licence premises approved to trade beyond 3am and off licence premises operating in the Southern Zone and Central Area will be required to meet higher standards of compliance and operation, as assessed using the criteria set out in this Policy. By virtue of their location in the Southern Zone for alcohol-related harm, they will also be subject to additional trading conditions.

Trading past 3am for on-licence premises, and past 8pm for off-licence premises in the Central Area will be subject to the following conditions (as applicable). These are aimed at reducing alcohol-related violence, anti-social behaviour and improving the amenity and good order.

The following conditions **will** appear on licences granted with a late-trading condition:

For premises that are generally on-licence:

- the licensee must maintain a register of incidents that is available for inspection by enforcement authorities at any time during trading hours
- the licensee must notify the Police of any violent incidents that occur on the premises
- the licensee must at all times comply with the conditions set out in the noise management plan for the premises
- the following area: (insert description) has been designated as an observation zone for patrons for whom service has been stopped
- the premises must operate a 'wind-down' protocol.

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For licensed areas outside on-licence premises:

- no loudspeaker, amplifier, relay or other audio equipment may be used outside the premises past 3am.
- the licensee must ensure litter (this includes , but not limited to, vomit and alcohol-related rubbish) is removed from outside the premises.
- high visibility vests to be worn by staff operating at the main entrance and/or outside the premises
- the licensee must ensure that at all times when a queue is formed; a dedicated staff member is required to manage the queue and ensure it does not impede the general public or use of the pavement
- outside areas are to be monitored at all times.

For off-licences:

- the licensee must ensure the operation of closed-circuit television of a quality that will help to identify alcohol-related offending, and put up signs to inform the public
- the licensee must maintain a register of incidents that is available for inspection by enforcement authorities at any time during trading hours
- the licensee must notify the Police of any violent incidents that occur on the premises
- the licensee must ensure litter (this includes , but not limited to, vomit and alcohol-related rubbish) is removed from outside the premises.
- all bottle stores must have a supervised designation.

Exemptions:

Exemptions to any of the above conditions may be considered. Detailed information to support an application for exemption must be provided to the DLC on application.

8.4 Host responsibility

The Act requires holders of on-licences and club licences to be responsible hosts by ensuring the availability of:

- non-alcoholic drinks
- low-alcoholic drinks
- free water
- food
- help with information about transport.

The Act also allows DLCs to impose conditions aimed at promoting the responsible consumption of alcohol. Host responsibility therefore, forms an important part of the assessment of a licence application and of the inspection of licensed premises. The DLC requires licensees to demonstrate that a comprehensive host responsibility programme is in place and is being actively promoted.

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The basic elements of a host responsibility programme are:

- serving alcohol responsibly
- providing and actively promoting low- and non-alcoholic alternatives
- providing and actively promoting appropriate food
- providing information on and actively promoting alternative forms of transport
- advertising the availability of free drinking water
- identifying and responsibly dealing with under age and intoxicated people
- ensuring that management and staff are trained in host responsibility practices and continue to update their skills
- having a house policy on host responsibility and adhering to it.

9 Enforcement

Responsibility for enforcement to ensure compliance with the Act will be undertaken by Wellington City Council licence inspectors, the Police and public health officials. These organisations will work together to share information and resources.

Where licence conditions are breached, or on-going non-compliance with the Act or the Policy is identified and not addressed, licence inspectors and/or Police may seek a variation, suspension or cancellation of the licence.

Where problems related to a premises' hours of operation are identified and remain unresolved, action will be taken by the licence inspectors to reduce the hours of operation.

All instances of non-compliance will be recorded and used in the assessment of renewal applications for managers' certificates and licences, and any variations. Instances of noncompliance and substantiated irresponsible management may result in changes to conditions and/or a reduction in concessions (such as hours of operations). Likewise where the applicant or management are associated with operations that are now closed or certificates that have expired, the historical information may be taken into account for new applications.

The Council will address its enforcement responsibilities by:

- inspecting all licensed premises routinely while the premises are open for trading
- inspecting taverns and nightclubs during the busiest hours of operation, as well as near the end of the trading hours
- targeted inspections of premises where noncompliance with licence conditions or with the Act is observed
- targeted inspections of premises which generate public complaints or Police intervention
- randomly inspecting special licences
- routinely monitoring temporary authorities
- undertaking joint monitoring operations, commonly referred to as controlled purchase operations, with the Police and the Medical Officer of Health
- issuing infringement notices in accordance with operational guidelines for DLC inspectors.

10 Public notification and participation

Statutory obligations

Site notification required under the Act:

An applicant for a liquor licence must, within 10 working days after filing the application, ensure that notice of the application in the prescribed form is attached in a conspicuous place on or adjacent to the site to which the application relates; and

Print notification:

An applicant must, within 20 working days after filing the application, give public notice of the application.

Wellington city council notification requirements

The Secretary of the Wellington DLC has nominated The Dominion Post and The Wellingtonian as newspapers suitable for notification. This decision was based on circulation figures for the two papers.

The Secretary of the Wellington DLC requires the site notification to be brightly coloured and A3 in size and displayed for a period not less than seven days. Each applicant is required to file a signed declaration form confirming their obligations under the Act in respect of public notification have been fulfilled. They are further required to detail the dates when the notice was on display. It is recommended that applicants take time- and date-stamped photos of the notice in place to demonstrate their compliance.

The Wellington City Council also undertakes to provide a current list of all applications received, on www.Wellington.govt.nz/liquorobjections. The public may also register for web alerts that advise when new applications have been listed. To register for a web alert, visit www.Wellington.govt.nz/webalerts

Public participation

All new and renewal applications for on-, off- and club licences, and any application for variations to licence conditions, are publicly notified and the community has the ability to comment or object. The community also has the ability to comment or object in the case of any special licence applications where the DLC has required public notification in the form of on-site and/or print as is deemed necessary.

The criteria for assessing licence applications (new, renewals and variations) include consideration of any public objections received, and guide licence inspectors in forming their recommendations to the DLC. In making decisions

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about granting or declining applications, the DLC will have regard to the complete file and all matters raised in any report on the application.

The DLC reviews all objections received from reporting agencies and the community and decides whether or not the matter will be determined at a public hearing or on the papers. Objections that do not meet the criteria set out in the Act and/or are deemed serial or vexatious in nature may be ruled invalid.

The process for objecting to a licence application is outlined in Appendix 1. Where community complaints about a venue or activity involving alcohol have been received and recorded by Wellington City Council, these are also considered in the assessment of applications.

11 Roles

The Alcohol Regulatory Licensing Authority (ARLA) functions primarily as a national appeals body and overseer of due process. In some cases it may also consider and determine applications when these are referred by licensing committees. ARLA may issue directions such as, notes, guidelines for licensing committees.

The District Licensing Committee (DLC) is the primary decision-making body on applications for the sale and supply of alcohol in Wellington City.

Agency collaboration in Wellington City is well established. The three agencies required to report on applications, Police, MoH and licensing inspectors will continue to work together to develop and implement strategies for reducing alcohol-related harm, they will jointly monitor licences and enforce the Act.

District Licensing Committee

The Sale and Supply of Alcohol Act 2012 allocates the role of District Licensing Committee to the Council. The DLC has a prescribed role to consider licence applications to ensure the sale, supply and consumption of alcohol is undertaken safely and responsibly and that any harm caused by the excessive or inappropriate consumption of alcohol is minimised.

The functions of a DLC are:

- to consider and determine applications and renewal applications for licences and manager's certificates; and
- to consider and determine applications for temporary authority; and
- to consider and determine applications for the variation, suspension, or cancellation of special licences; and
- to consider and determine applications for the variation of licences and
- to refer applications to the licensing authority; (any decision may be referred) and
- to conduct inquiries and to make reports as may be required of it by the licensing authority.

The DLC will also undertake any other functions conferred on licensing committees by or under the Act or any other enactment.

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A DLC has three members appointed by Wellington City Council. One must be the chairperson and an elected member of the Council (the Mayor or a councillor); the other members are appointed from a list approved by the Council. DLC members must be of good standing in the community, and have the necessary knowledge, skill and experience relating to matters that are likely to come before them, but not have direct or indirect involvement in the alcohol industry. A Police officer, a Medical Officer of Health, a licence inspector, or a Council employee are also prohibited from being members.

The quorum for a DLC meeting is three members – except where no objection has been filed, and no matters of opposition have been raised where the quorum is one member, who must be the chairperson.

The Council must hold a list of DLC members. A list of approved DLC members will be available in December 2013 on Wellington.govt.nz

The Council may appoint commissioners to perform the functions of a DLC. A commissioner must also be of good standing in the community, and have the necessary knowledge, skill and experience relating to matters that are likely to come before them, and are subject to the same restrictions as a DLC member.

The criteria by which an applicant for membership of the DLC is assessed is available on request by calling 499 4444 on Wellington.govt.nz

Alcohol Regulatory and Licensing Authority

The Alcohol Regulatory and Licensing Authority (ARLA) is a decision-making and appeal body. It is a tribunal administered by the Ministry of Justice, consisting of up to three District Court Judges and any number of other members. The chairperson of ARLA must be a District Court Judge.

ARLA's functions include:

- to consider and determine the following matters when referred to it by licensing committees:
 - applications for licences
 - applications by licensees for the renewal or variation of licences
 - applications for manager's certificates
- applications for the renewal of manager's certificates; and
- to consider and determine appeals from decisions of licensing committees; and
- to consider and determine appeals against elements of provisional_local alcohol policies; and
- to consider and determine applications by inspectors and constables for the variation, suspension, or cancellation of licences and manager's certificates; and
- any other functions conferred on it by or under the Act or any other enactment.

Decisions of ARLA often involve the setting of precedents. ARLA also provides direction on sale and supply of alcohol matters, including interpretation of the Sale and Supply of Alcohol Act 2012.

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Licence inspectors, Police, and public health authorities

On receiving an application for a licence, the secretary of the DLC must send a copy of it, and each document filed with it, to a Wellington City Council licence inspector, the Police and the Medical Officer of Health. Each of these organisations has a particular focus for their input into the licensing process and all are required to inquire into applications.

Police – concerned about the suitability of applicants, particularly those with criminal records, and premises with a history of antisocial behaviour.

Medical Officer of Health – concerned with the wider impacts on public health associated with alcohol abuse.

Wellington City Council licence inspector – inquires into each application, taking account of all information and reports before filing a report with the DLC.

Community

A key objective of the Act is to facilitate greater community input into local decision-making. This Policy recognises that objective and gives effect to it in three ways:

- better availability of licence information to the public
- automatic hearing process for high-risk new and/or renewal applications in areas of the city overrepresented in alcohol-related harm data. A copy of the application will be forwarded to relevant residents associations and sensitive facilities identified by the reporting inspector.
- clearly explained and widely communicated public objection rights and processes.

The community has specific needs and expectations that may relate to location, amenity, community structure or at-risk groups. Public participation in licensing decisions is important. The DLC relies on the community to provide information and local views on licence applications.

APPENDIX ONE:

How to object to a licence application

The following provides an overview of what objectors need to know before filing objections against licence applications and having those objections heard by the DLC.

The role of the DLC

All liquor licence applications are filed with the local authority nearest to the site of the proposed licensed premises. In this case Wellington City Council administers all licensed premises within its boundaries. The Sale and Supply of Alcohol Act 2012 gives the Council the power to act as the DLC.

The Secretariat of the DLC accepts and processes all liquor licence applications. Where there are no objections the DLC may issue licence certificates permitting the sale and supply of alcohol. Where there are objections to applications for new, or renewals of, on-, off- and club licences, managers' certificates, special licences and temporary authorities, these are determined by way of a public hearing of the DLC. A decision of the DLC can be appealed to the Alcohol Regulatory and Licensing Authority (part of the Ministry of Justice).

The application process

Once a licence application to sell and supply alcohol is filed with the secretariat of the DLC, a copy is sent to the Police, Medical Officer of Health, licensing inspector and as appropriate, any or all of the following; residents associations, sensitive facilities, a building inspector, health inspector and/or resource consent planner. Officers investigate the application and report back to the DLC.

Within 20 working days after filing the application, the applicant is required to give public notice of the application in a form set out in the Sale and Supply of Alcohol Regulations.

The notice must be published twice in a newspaper or newspapers circulating in the district (of the proposed licensed premises) and nominated by the Secretary of the DLC.

There must not be less than five days and not more than 10 days between the two dates of publication.

The applicant must also, within 10 working days after filing the application, ensure that notice of the application in the prescribed form is attached in a conspicuous place on or adjacent to the site to which the application relates.

The notice, A3 in size and on brightly coloured paper, is required to be displayed for a period not less than seven days. They are further required to detail the dates when the notice was on display. It is recommended that applicants take time- and date-stamped photos of the notice in place to demonstrate their compliance.

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Objections must be in writing and filed with the DLC within 15 working days after the first publication of the public notice.

The DLC reviews all objections received from reporting agencies and the community, and decides whether or not the matter will be determined at a public hearing or on the papers.

Who may object?

Any person who has a **greater interest** in the application than the public generally may object to the granting of a liquor licence.

Status of objectors: who has a greater interest?

A person with a greater interest could be likened to a resident living in the same street as the proposed premises. A member of the public residing 10km away and who is concerned about the effects of alcohol on the community could be considered as not having a greater interest in the application.

The DLC may give less weight to objections from people who will not be directly affected by the proposed licensed premises.

Public notices – what to look for

The Sale and Supply of Alcohol Regulations prescribe a form to be used for public notices.

Here is an example.

Example to be inserted following publishing of regulations

Any person who is entitled to object and who wishes to object to the grant of the application may, not later than 15 working days after the date of the first publication of this notice, file a notice in writing of the objection with the Secretary of the District Licensing Committee, PO Box 2199, Wellington.

This is the first / second publication of this notice.

Grounds for objection

The grounds for objection are set out in section 102 and 105 of the Act. They are:

For on-, off- and club licences:

1. Object of the Act.
2. The suitability of the applicant.
3. Any relevant local alcohol policy.
4. The days on which and the hours during which the applicant proposes to sell alcohol.
5. The design and layout of any proposed premises.

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6. Nature of the operation:

- whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food
- whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food.

7. Whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence.

8. Whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects for the issue of the licence; but it is nevertheless desirable not to issue any further licenses.

9. Whether the applicant has appropriate systems, staff and training to comply with the law.

10. Any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103 of the Sale and Supply of Alcohol Act 2012.

Note: The DLC will not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

Making an objection

To make an objection, simply write a letter stating you wish to object and why. You must address the criteria set out above and the objection must be filed with the DLC within 15 working days of the first public notice appearing in the newspaper.

Upon receipt of an objection, the DLC will send an acknowledgement letter. Once all reports on the application have been completed, the application will be reviewed by the DLC, which will assess the validity of the objection. If the DLC determines a hearing is necessary, a hearing date will be scheduled and objectors will be asked whether they wish to speak at the hearing.

Objection formats

Some residents circulate petitions to inform other neighbours of an application and to gain support opposing a new licensed premise. These petitions are then filed with the DLC. Although this is an effective way to boost numbers of objectors, duplicate signatures are frequent. It is extremely difficult for the DLC to acknowledge petitioners because names and addresses are often unreadable. Therefore it is always helpful if a spokesperson/ key contact person can be appointed.

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DLC hearing procedure

The DLC is a decision-making body administered by Wellington City Council. It has all the powers of a commission of enquiry; this includes the ability to issue summonses requiring the attendance of witnesses and/or the production of documents. Each DLC consists of three members. An elected member of the Council serves as chairperson of the DLC and two other members make up the DLC quorum.

For further detail on what to expect at a DLC hearing, please refer to the Wellington City Council website:

Wellington.govt.nz/services/consents-and-licences/liquor-licensing/object-to-an-application/how-tolodge-an-objection

The Resource Management Act and District Plan

A local alcohol policy may contain a policy more restrictive than the relevant district plan but is not to authorise anything prohibited by the relevant district plan.

The District Plan was introduced in 1994 and was prepared under the Resource Management Act 1991. A key philosophy of this Act is the requirement for councils to control the effects of activities or development rather than controlling the type of activity.

Most of the public objections the DLC receives relate to taverns (bars) being built in residential areas or suburban centres. Retail centres are zoned “Centre” under the District Plan. The Suburban Centre provisions permit uses such as bars and taverns provided that their effects do not exceed the limits stated in the Plan (for such things as noise and lighting).

Before a liquor licence application can be made, each applicant must satisfy the requirements of the District Plan to ensure the type of licensed premises proposed can be established on a site. Sometimes a resource consent application will be needed.

The Sale and Supply of Alcohol Act 2012 introduced much broader grounds for objection than were previously permitted under the Sale and Supply of Liquor Act 1989. Now, members of the public who believe they have a greater interest than the public generally can raise the likely negative impact on issues such as noise, parking, litter, anti-social behaviour and vandalism as they relate to the locality in their opposition to an application.

To address issues of concern to reporting agencies and/or the public, the DLC can also consider issuing licences subject to discretionary conditions that are, in its opinion, reasonable and not inconsistent with the object of the Act.

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Your objection should clearly refer to those matters noted in the section 'Grounds for Objection' and should also consider if the DLC could manage the perceived adverse impact of granting a licence through the application of additional licence conditions (refer to section 11.0 Discretionary Licence Conditions).

Keeping you informed

Some licence applications attract hundreds of objections and the DLC can receive literally thousands of pages of objections. The DLC will acknowledge all objections providing the name and address of the objector is readable.

Objectors naturally want to be kept up-to-date with the progress of an application as they have a personal interest. Occasionally applications take many months to process. Sometimes applicants have to repeat the public notice process to correct application errors. It is rare that objectors who have already filed objections would need to re-file their objections. If you see another public notice published in a newspaper on an application to which you have already lodged an objection, please telephone the secretariat staff of the DLC for advice before sending in another objection.

Summary

- It is easy to make an objection to a liquor licence application.
- Write a letter to the Secretary of the Wellington DLC and include the grounds for the objection (refer to Appendix 1).
- Ensure the objection is filed within 15 working days of the first public notice appearing in the newspaper.
- The DLC will assess the application and all related information to determine if a formal hearing of the matter is warranted. You will be notified of the decision and, if the matter is to proceed to a public hearing, you will be notified of a hearing date and asked if you wish to appear to speak to your objection.

Further information

The Wellington District Licensing Committee can help you with information about the Sale and Supply of Alcohol Act 2012 and how it affects you.

For more information on the Act 2012 and objections, please phone the secretariat staff of the Wellington District Licensing Committee, on 499 4444.