

**ORAL HEARINGS – DRAFT LOCAL ALCOHOL POLICY  
– THURSDAY 8 AUGUST**

<b>Time</b>	<b>Name</b>	<b>Organisation</b>	<b>Submission Number</b>	<b>Page</b>
9.25am				
9.30am	Martin Cheer	Pub Charity	47	3
9.40am	Joe Cuccurullo	Mediterranean Food Warehouse	92	5
9.50am	Martin Hanley	Newtown Residents Assn	287	13
10.00am	Bryce Mason	Sandwiches	46	15
10.10am	John Albertson	NZ Retailers Assn	298	16
10. 25am	<b>10 Minute Buffer</b>			
10 .35am	<b>Morning Tea</b>			
10.50am	Justin McKenzie	Hawthorn Lounge	332	24
11.00am	Amy Robertson	Alcohol Healthwatch	283	32
11.10am	Catherine Healy	NZ Prostitutes Collective	284	47
11.20am	Alastair Sherriff	Chow Group Ltd	290-293	55
11.35am	Grace Welsh-Morris	Individual	319	130
11.40am	<b>10 Minute Buffer</b>			
11.50am	Clinton Der Heyer	San Francisco Bath House	487 and 1845	138
12.00pm	Tracey Macrae and Mat Lear	Individual	327	171
		Individual	328	
12.10pm	Kevin Rikys	Kamer Holdings	525	184

<b>Time</b>	<b>Name</b>	<b>Organisation</b>	<b>Submission Number</b>	<b>Page</b>
12.20pm	Helen Fielding	Health Promotion Agency	1875	187
12.30pm	<b>Lunch</b>			
1.15pm	Garry Mullany	Super Liquor Holdings	296	193
1.30pm	Sam McBride	Individual	280	199
1:35pm	Jason Roberts	Individual	256	203
1.40pm	Neil Patel	Individual	289	209
1.50pm	Mr R Tait	Johnsonville Club		
2.00pm	<b>10 Minute Buffer</b>			
2.10pm	Sara Tucker	Hospitality New Zealand	488	212
2.30pm		Capital Coast DHB	528	278
2.45pm		Regional Public Health	528/521/1334/ 1333	294
3.00pm	<b>10 Minute Buffer</b>			
3.10pm	<b>Afternoon Tea</b>			
3.20pm	Dr Stephen Palmer	Medical Officer of Health		
3.35pm				
3.30pm				
3.40pm				
3.50pm	Steve Drummond	Streedagh Ltd	1844	303
3.50pm	<b>10 Minute Buffer</b>			

**SUBMISSION ON – WELLINGTON CITY COUNCIL DRAFT LOCAL ALCOHOL POLICY JULY 2013**

To: [alcoholstrategy@wcc.govt.nz](mailto:alcoholstrategy@wcc.govt.nz)

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**Background**

Pub Charity is a national gaming trust operating 1,920 in 162 venues across New Zealand of which 2 venues and 27 machines are located in licensed premises in Wellington City and Johnsonville.

The gaming sector is integral part of the hospitality sector and as well as raising funds for community groups contributes to the entertainment scene, provides employment and supports business vitality.

Planned changes in the Local Alcohol Policy (LAP), in particular the mandatory reduction in operating and the limited establishment of entertainment precincts will ultimately translate into the unintended consequence of a reduction in the viability of gaming machines operation within Wellington City and the benefits that flow from those operations.

We appreciate the opportunity make a submission on the draft Local Alcohol Policy (LAP) as Wellington City Council develops its LAP under the Sale and Supply of Alcohol Act 2012 (SASAA).

Pub Charity would like to speak to these submissions.

Martin Cheer  
Pub Charity  
Mobile: 0274 715 745  
Email: [martin@pubcharity.org.nz](mailto:martin@pubcharity.org.nz)

## Submissions

- Regulatory policies should be proportionate to the risk of harm. Approximately 75% of alcohol consumed is now bought from off-licences and just 25% from on-licence premises.
- On-licence businesses are held to high standards of accountability and host responsibility.
- On premise is a highly regulated drinking environment with license holders responsible for patrons' behaviour regardless of where the patron's alcohol consumption has occurred.
- It is the drinking at home or in unsupervised environments that causes most alcohol related harm with Wellington City's social issues associated with alcohol consumption the result 'pre-loading', 'side-loading' and 'post-loading' of cheap alcohol from supermarkets and bottle stores.
- These forms of consumption are unmonitored and uncontrolled and the LAP does little to discourage or dis-incentivise such behaviour and there is evidence that restrictive measures including reduced opening hours and one-way door restrictions can actually make that type of behaviour worse.
- Underage drinking is a rarity in licensed premises and any regulatory response to addressing underage drinking should be directed at supermarkets, bottle stores and, most importantly, the parents, friends and other people that enable such behaviour.
- Instead of penalising licensed premises that are partners, stakeholders, and to some degree qualified contributors to delivering more responsible drinking environments Wellington City Council should recognise the opportunity represented by providing controlled and regulated environments for the consumption of alcohol.
- While other options remain for people of all ages to access and consume alcohol the location, density and opening hours of liquor outlets (particularly on-licensed premises) are not the key issues.
- Limiting on-premise opening hours will have little or no impact on the amount of alcohol that people consume, simply the location of where and how it is consumed.
- One-way doors and restricted hours appear to have little impact on community behaviour with people not allowed into bars are likely to drink in public or other unregulated places.
- Ultimately restricting opening hours and access to licensed premises will translate into a reduction in revenue for ancillary activities like gaming.
- Any reduction in gaming revenue translates directly into a reduction in charitable funds generated for community, and could ultimately undermine employment and business income associated with hosting gaming machines.
- The precincts suggested by the Wellington City LAP also appear to ignore the community hub built up around Petone with earlier closing times encouraging people to be more transient increasing the potential of drink driving and putting more people out on the street.
- Pub Charity would encourage Wellington City Council to reconsider the strategy being promoted for managing on license premises operating hour's and use the available tools to punish the rare operators who do not operate their premises responsibly rather than punish all operators with these restrictive measures.

# HOW WE MANAGE ALCOHOL IN WELLINGTON SUBMISSION FORM

SUBMISSION No. 92

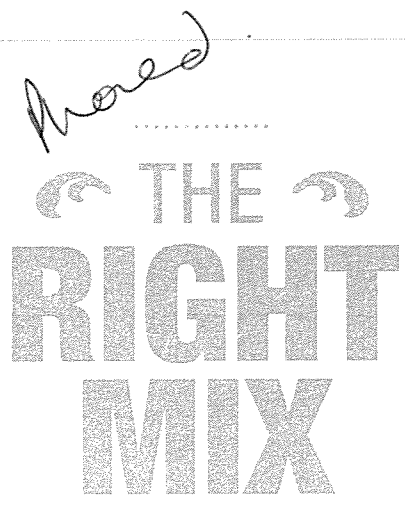
I wish to discuss the main points in my written submission at a hearing, to be held in early August 2013 (note oral submissions are given five minutes for individuals and 10 minutes for organisations).

I am completing this submission:

On my own behalf  On behalf of a group or organisation

If you are representing a group or organisation, how many people do you represent? 2 DIRECTORS

Your name MR. JOSEPH CUCCURULLO  
Organisation name (if applicable) MEDITERRANEAN FOOD WAREHOUSE  
Organisation role (if applicable)  
Contact address 42 CONSTABLE STREET  
NEWTOWN Post code 6021  
Phone number (day) 9398100 Phone number (evening) 021 750 211  
Email (if applicable) joe@medifoods.co.nz  
Signature [Handwritten Signature] Date 29-07-13



Privacy statement

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

# DRAFT LOCAL ALCOHOL POLICY

**1. Please indicate your level of satisfaction with the following provisions in the draft LAP.**

\*If you disagree, please tell us what you would like the provision to be changed to.

**1a. Under the proposed zone framework, late-night trading activity of bars and entertainment venues will be moved into a specific Entertainment Precinct to better manage the harm associated with trading at this time.**

The proposed Entertainment Precinct boundaries are Courtenay Place (Kent Terrace) to Cuba Street (Abel Smith Street).

(section 9 of the draft LAP)

**Creating an Entertainment Precinct:** (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

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**1b. The proposed risk-based management framework reviews the suitability of all elements of the activity in relation to its impacts on the community, and provides a risk classification.**

This classification will influence the licence fees charged by the Council and the types of conditions that may be applied to the licence. The lower the risk, the lower the fees charged by the Council and the fewer restrictions applied to the licence.

(section 8 of the draft LAP)

**Risk-based management framework** (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

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1c. The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafés).

**Entertainment Precinct**

7am–3am

7am–5am maximum for best-practice premises

**Central Area**

7am–2am

7am–3am maximum for best-practice premises

**Suburban Centre**

7am–midnight maximum

(section 9 of the draft LAP)

**Entertainment Precinct maximum trading-hour restrictions for on-licensed venues**

(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Central Area maximum trading-hour restrictions for on-licensed venues** (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Suburban Centre maximum trading-hour restrictions for on-licensed venues** (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

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1d. The proposed maximum trading-hour restrictions of 7am–9pm for off-licensed venues (supermarkets, grocery stores, bottle stores).

(section 9 of the draft LAP)

**Maximum trading-hour restrictions of 7am–9pm for off-licensed venues**

(please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

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1e. Supermarkets, grocery and bottle stores (all off-licence venues) should be treated the same despite the different range of products they sell.

- Supermarket and grocery stores can sell only beer and wine
- Bottle stores can sell beer, wine, spirits and RTDs (ready-to-drink mixes)

**Treating all off-licence venues the same** (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

In the last 15 years there has been an increase in the number of "Speciality Food stores." These stores sell alcohol pertinent to themselves and as such attract customers who shop there knowing that some or most of the alcohol is not sold at mainstream supermarkets/bottle stores.

1f. The Council will look closely at applications for the sale and supply of alcohol at youth-focused occasions or events, or those likely to attract people under the legal purchase age of 18 years.

(section 9 of the draft LAP)

**Council focus on applications for youth-focused occasions or events** (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**\* If you disagreed above, please give reasons**

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1g. The policy identifies circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises.

(section 10 of the draft LAP)

The proposed circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

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1h. The proposed discretionary conditions that could be applied to a licence.

(section 11 of the draft LAP)

The proposed discretionary conditions (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

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2. Overall, do you agree with the direction of the draft Local Alcohol Policy? (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

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Please be as specific as possible to help us understand your views. It is helpful if you clearly state the page(s) and/or section number(s) of the draft LAP you are commenting on.)

3. What are the best aspects of the draft Local Alcohol Policy?

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4. What aspects of the draft Local Alcohol Policy do you think need to be changed?

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5. Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?

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# DRAFT ALCOHOL MANAGEMENT STRATEGY

6. The proposed goals in the draft Alcohol Management Strategy are achievable (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

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7. The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

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8. The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

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You may add more pages if you wish. **Thank you for your submission.**

You don't have to complete this section, but this information helps us to know who we are reaching.  
We use this for statistical purposes only. It will not be made publicly available.

**Your Gender**

- Male       Female

**Your age**

- Under 18 years       18–29 years       30–39 years  
 40–49 years       50–59 years       60 years and over

**Your ethnicity**

- New Zealand European       Māori       Samoan  
 Cook Island       Tongan       Niuean  
 Indian       Chinese       Other .....

Fold here first

**Fold, fasten and post this form to the Wellington City Council  
using the Freepost address below**

Fold here second

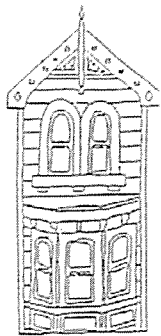
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07

PO Box 7316 Newtown Wellington 6242  
[newtownwellington@gmail.com](mailto:newtownwellington@gmail.com)

30 July 2013

## SUBMISSION ON LOCAL ALCOHOL POLICY

The Newtown Resident's Association has previously made a very full submission at an earlier stage in the consultation process. As a result this submission simply focuses briefly on the 3 key issues in the proposed policy that relate to our suburb.

### Off Licence Trading Hours

The proposal in the draft policy is consistent with our earlier submission and is strongly supported. Shorter hours of supply will also have health benefits for moderate drinkers.

### Trigger for Hearings on Licence Applications

We are a community with strong views on the harm caused by over promotion and over supply of alcohol to vulnerable members of society. Newtown has a history of activism in relation to liquor licence applications in our part of town. We are very pleased with the proposal for a lower threshold for the holding of hearings on applications in the Southern suburbs.

### Midnight Closing for Suburban Bars

We note that while several local bars currently have licences allowing later than midnight opening they tend to not do so regularly. This proposal attracted mixed reactions at our most recent meeting. While some members were comfortable with the proposal, others were not.

Those who were not expressed two different sorts of concerns. The first was along the lines that if our young people were going to be drinking past midnight they were going to be safer doing locally than downtown. Related to this was the thought that the midnight closing might lead to a midnight migration of people who had already been drinking on to the

Booked.

central city, when left where they are, if they could have stayed later, they would have completed their night out locally and simply gone home.

The second group of concerns is more focused on the possible effect on the emergence of our local performance and entertainment scene. Several Newtown Bars have started hosting live shows and in addition there are performance events at non-licensed venues such as the Newtown Community and Cultural Centre and Dom Polski which often have an "after match" gathering at a local bar.

The occasions when local bars open past midnight are often in association with performance events. Locals value the emergence of our local entertainment and performance scene and some are concerned that the loss of the ability of local bars to open past midnight will limit this. The concern has been expressed that the introduction of midnight closing for suburban bars looks suspiciously like a move to protect the proprietor of the Courtney place booze barns from the threat of competition from the emergence of a more civilised suburban entertainment scene.

In partnership with WCC Community Services and WCC City Events our Residents' Association has invested thousands of hours over many years fostering local talent and developing a creative performance culture in our suburb. We believe Newtown's licensed premises have a responsible role to play in hosting aspects of this.

The Local Alcohol Policy is an important initiative, and contains points our Newtown Residents' Association strongly supports. We have strong views on the over promotion and over supply of alcohol to vulnerable members of society. Our comments here are summarised from a wide range of members' experiences and concerns.

We would like to be heard in support of this succinct submission. Please do not hesitate to contact me at [martin.hanley@vuw.ac.nz](mailto:martin.hanley@vuw.ac.nz), or on 389 7316 if you would like our Association to provide more detail on our grass roots local experience of this important social issue.

Yours sincerely



Martin Hanley  
President  
Newtown Residents' Association

SUBMISSION No. 46

**Jaime Dyhrberg**

**From:** Bryce [bryce@sandwiches.co.nz]  
**Sent:** Tuesday, 30 July 2013 8:08 p.m.  
**To:** BUS: Alcohol Strategy  
**Subject:** Submission For the LAP In Wellington From Sandwiches  
**Follow Up Flag:** Follow up  
**Flag Status:** Red

Submission From Bryce Mason on behave of Award winning New Zealand's Top music venue( Sandwiches)

I write this with a very heavy hart. This Coming weekend 2<sup>nd</sup> .3<sup>rd</sup> August 2013, is 10 yrs to date we opened the doors. Sadly this weekend will be our last.

This year has been a year of Battles. Our year has been a battle of regulations.

We all know that the councils in NZ have been handed a very poor bill from central government.

I have spent hours and hours working thru the LAP process. I feel more regulation on our industry will kill the vibrancy in Wellington.

I am the living proof of this. There are some key factors why we are closing the doors this weekend at Sandwiches.

We except that the building owners want to bring our building up to earth quake code. But to re open in December/January, with the default hours (4am)

Is simply not viable for Sandwiches. Our Market doesn't arrive until 1am in the morning with pre purchased tickets. 6 hours a weekend of core trading is not enough time to cover running cost of around 12k per weekend. We trade until 6am/7am.

Even if or when we could look at a 5am close, post the default , there are to many regulations in the current draft that concern me and the industry.

Again for this reason we have decided to exit with a heavy heart. Sandwiches is the model venue in Wellington for night time culture. 10 years , a prefect

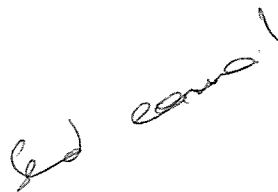
Record with the DLA and Police. Sadly if we carry on down this path of more and more regulations that are proposed , mark my words, more and more good

Operators will exit the city. This is a fact.

Please reconsider where the current draft LAP is heading. Trust me, it comes with a big cost.

I would like to speak at the Submission process please.

Kind Regards  
 Bryce Mason (Sandwiches)  
 021312001





**SUBMISSION**

**to**

**Wellington City Council**

**Wellington City Council - Draft  
Local Alcohol Policy**

**2 August 2013**



872

## 1. Introduction

These submissions are made to the Wellington City Council (the Council) by the New Zealand Retailers Association (NZRA) on behalf of:

- The NZRA; and
- All members of the NZRA located within the Wellington City Council catchment, including (but not limited to) those specifically named in Schedule 1 to these submissions who hold either an off-licence or on-licence relating to the sale of alcohol.

These include the two major supermarket groups, a number of alcohol specialist retailers, numerous grocery stores, other specialist food stores and some cafes/restaurants.

## 2. About New Zealand Retailers Association

The NZRA is the largest trade association representing the interests of retailers. Our membership includes some 5,500 retailers (12,000 – 14,000 shops) across all store types and the business generated by these stores would account for some two thirds of retail expenditure.

The sector in its broadest definition (Stats NZ) has annual sales of some \$70b and employs in excess of 300,000 people.

## 3. Contact

Louise Evans McDonald  
Government & Advisory Group Manager  
New Zealand Retailers Association  
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Wellington

or Barry Hellberg  
Government Relations Manager  
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## 4. Background

The NZRA has had considerable involvement in the most recent development of reforms to legislate and regulate the purchase and consumption of alcohol. This started with the review conducted by the Law Commission, the development of legislation by Central Government and now the development of local alcohol policies (LAPs) by regional authorities.

We have had considerable involvement with the Wellington City Council in the work programme this far and we now welcome the opportunity to comment formally on the draft LAP that has been released by the Council for public consultation.

By way of background we believe it is important for all parties considering this LAP to have a clear picture of the economic importance of the off-licence sector to the Wellington economy. Data drawn from Statistics NZ reports indicate that there are 158 supermarkets and grocery stores and 20 specialty liquor stores in the Wellington City Council catchment area and these businesses employ some 2,770 people, supporting the Wellington economy in terms of wages to the tune of \$100,000,000 paid to staff.

We need to be mindful of unintended consequences of decisions impacting on these statistics.

On top of these operational statistics we also need to recognise the huge investment in land and buildings made by the supermarket sector in the Wellington area, and the contribution to rates.

## **5. Submissions**

### **Key Areas Of Concern**

We wish to specifically comment on the following three areas

- a) Limits On Hours Of Operation (section 9 of draft LAP)
- b) Outlet Density And Proximity (section 10 of draft LAP)
- c) Other Matters

#### **a) Limits on Hours of Operation:**

The LAP makes the statement that "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".

There is absolutely no evidence to support this statement.

The vast majority of alcohol bought at off-licence premises is for consumption over time in social situations – a glass of wine after work, a weekend dinner party, a drink before heading to the theatre or a couple of beers while watching the rugby. Consumers do not go to an off-licence premise on a daily basis to make these purchases – they may buy several bottles at a time – this does not mean that they are going to drink more or less responsibly. The inference in the statement in the LAP suggests that buying from an off-licence somehow results in excessive drinking.

The national default hours specified in the Act for off-licence operators is 7.00am to 11.00pm. The Wellington City draft LAP proposes 7.00am to 9.00pm. We would argue most strongly that this proposal will do absolutely nothing to support the key objective of the Act which is to curb excessive and dangerous consumption of alcohol.

This is not an emotional debate it is simply a test of plain, simple logic. Logic which we believe is irrefutable. The suggestion that somehow you can control consumption

by limiting one aspect of purchasing makes no sense (and there is no NZ research, as far as we can ascertain, to support that argument).

Let's consider the following....

- i. The suggestion is that off-licence operators who would open between 9.00pm and 11.00pm would be feeding alcohol to those who are drinking excessively before "heading into town". We are also told that the majority of younger people don't arrive into town until around 11.00pm because they are home "pre-loading". So, if the young are supposed to be "home drinking" between 9.00pm and 11.00pm they aren't going to be out shopping at that time. They will have already bought their supplies.
- ii. We know from the factual data from supermarket point of sale information that the proportion of total alcohol purchased on its own or just with snacks is tiny compared with the majority that is purchased with a regular grocery shopping trip. We have become fixated on a very small proportion of shopping occasions and we are ignoring the purchases made over 7 days of the week (these statistics have already been presented to Council).
- iii. The only meaningful research that we have seen on the question of "pre-loading" was conducted by the Christchurch City Council on Facebook. While this did suffer from an inherent bias towards younger respondents from the medium used what it did show was that the weighted average number of drinks consumed before going to town was 2.8 standard drinks. 55% of respondents either had nothing to drink before going out or between 1-3 drinks. 6.7% claimed to have consumed 10 or more drinks which would certainly be excessive. However, the majority behaved in a perfectly acceptable way – are we really going to change the drinking behaviour of this minority group by limiting the hours of availability at the very time they are drinking?
- iv. Let's now turn to those who aren't drinking before going to town, who aren't just buying alcohol on Friday or Saturday night or who aren't behaving in an irresponsible way. Let's turn our attention to all of those people who do their supermarket shopping between 9.00pm and 11.00pm. In considering this group we need to be very careful that we don't view them through our own eyes and our own shopping habits. You and I might not do our grocery shopping at this time of day but plenty of people do. If they didn't the supermarkets wouldn't be open.

As has been already mentioned the vast majority of alcohol purchases in a supermarket are made in conjunction with the purchasing of other goods – that is, it is all part of the main household shopping trip. If the hours for purchasing alcohol are shortened to 9.00pm any one commencing their shopping after 8.30pm will be excluded from including alcohol in their product mix (the average time in a supermarket is around 30 minutes). Do we really want to inconvenience many legitimate consumers to try and use purchasing restrictions to change the consumption behaviour of a few. An outcome from this could be that the late night shopper might be forced to change their

behaviour and as a consequence the supermarket might well shorten its hours ..... loss of hours means loss of wages. You are not dictating when people can buy alcohol you are, in fact, dictating when people can go grocery shopping. Are you going to penalise the majority to try and manage a small minority with a tool that simple logic would suggest won't work?

There is no New Zealand based evidence to suggest that purchasing behaviour and immediate consumption are intrinsically linked. Do we inconvenience the majority to try and change the behaviour of a very small minority or do we find a way of dealing with these few who are the problem? If we go back to the Christchurch statistics – anyone who has had 10 or more drinks before going to town should be very obvious and therefore managed by the responsible on-licence operators.

**We would strongly recommend that the Wellington City Council reviews its position and adopt the national default hours as prescribed in the Act of 7.00am – 11.00pm.**

#### **b) Outlet Density And Proximity**

There is a critical issue in this part of the debate that relates to investment. Over recent years Wellington City has seen many new supermarkets open and this has certainly added to the “Wellington Experience” - modern retailing sets a standard for any city.

Any supermarket operator needs certainty – it is not acceptable to permit the construction of a supermarket worth many millions of dollars and then to have the application for a liquor licence rejected at the eleventh hour.

We would strongly suggest that the question of a liquor licence should be addressed at the resource consent stage.

#### **c) Other Matters**

##### **i. Cost Benefit Analysis**

We note that the Council has not conducted or commissioned an independent cost benefit analysis of its draft Local Alcohol Policy. We believe this should be a fundamental step in the process for robust policy development. We wish to draw attention to the independent cost and benefit analysis that was undertaken by the Christchurch City Council. That report has been publicly released and highlights:

- *While the international literature has shown that reductions in opening hours can help reduce Alcohol Related Harm (ARH), reductions in consumption caused by the LAP will be minor and hence so too will any reductions in acute ARH. As a result, policy benefits will be minor.*
- *There is no evidence to support or oppose the proposed off-licence restrictions. Further, council does not appear to have a strong community mandate for reducing the hours that alcohol can be sold at certain off-licenses, such as supermarkets.*

- *Because the policy does not (and essentially cannot) target problem drinkers, it is fairly blunt and therefore has the potential to negatively impact a number of law-abiding citizens.*

We believe that the Wellington Council would want to validate that its policy options have been independently scrutinised and appraised the benefits appraised against the overall costs. Accordingly, we ask that undertaking a cost benefit analysis of the draft Local Alcohol Policy be given significant consideration by the Council.

## ii. Council Research

In preparing its draft alcohol management strategy and policy, the Council initiated a number of consumer research studies. One research project led to the publication of a report *“Off-Licence Purchasing and Consumption Patterns : Research conducted for the draft Local Alcohol Policy (2013)”*.

The findings of this research were used to inform Council officers and Councillors in the draft Local Alcohol Policy. The content of the report’s analysis was also used in background consultation documents available to the public as part of the draft Local Alcohol Policy and draft Alcohol Management Strategy. We also note that other Councils have referenced the report findings in their own draft LAP background documents (e.g. Christchurch City Council agenda papers for oral hearings to Draft Local Alcohol Policy 29-31 July 2013).

The NZRA noted some inconsistencies with purchasing data and the research findings. Accordingly we requested the raw data files, the survey questionnaire and a copy of the full report under a Local Government Official Information Act request which has been provided to us. In analysing this information in great detail, we have identified a number of concerns with the report. These have been addressed to the officials concerned, however we could not reasonably expect a response from them prior to written submissions on the draft Local Alcohol Policy closing. We expect to have a response prior to the oral hearings, and wish to advise you that we may draw your attention to our concerns at that time. In the interim, we suggest that it would be premature to add any weighting to the conclusions drawn either in the report, or in the data attributed to that report.

## iii. Draft Alcohol Management Strategy

The Council’s Draft Alcohol Management Strategy document notes on Page 6 the outcomes sought. We agree with, and support these outcomes. However, we do question the ability of the proposed policy options within the Council’s Draft Local Alcohol Policy to favourably impact on these outcomes - particularly the outcome of “greater personal responsibility: an increase in the safe and responsible consumption of alcohol”. It is our belief however, that some of the initiatives identified on Page 8 will have a positive effect. In particular we are supportive of the initiatives to:

- Work with the Health Promotion Agency and industry organisations on social marketing campaigns to create medium-term behavioural change;

- Widen and strengthen the central city liquor ban;
- Limit off-licence trading hours in the draft Local Alcohol Policy - to the national default hours of 7am to 11pm (not the currently proposed restrictions of 7am to 9pm); and
- Establish a “Capital Hosts” group for off-licences

We would welcome the opportunity to work with Council on these initiatives, and believe that it is a combination of these approaches which will have the greatest opportunity for a positive outcome and educate those most at risk on their role in taking personal responsibility.

## **6. Appearance**

The New Zealand Retailers Association would like to appear to speak to our submissions. We note that appearances are scheduled to commence 1 working day after the closing of submissions (ie. presentations commence Tuesday 6<sup>th</sup> of August, and submissions close on Friday 2<sup>nd</sup> August), and trust that adequate hearing times are available to presenters given that it would be unlikely that Council members had been given sufficient time to read all submissions thoroughly.

New Zealand Retailers Association  
August 2013

## **Schedule 1: NZRA members**

Progressive Enterprises Ltd (Countdown)  
Foodstuffs Wellington (New World, Pak'n Save, Four Square)  
Moore Wilson  
Liquorland  
Armed Forces Canteen Council  
Dixon St Deli  
City Stop  
Fidels Café  
Aro Street Café  
Brooklyn Bagels and Deli  
La Bella Italia  
Wineseeker  
Mediterranean Food Warehouse  
Neptune Café and Bar  
Newlands Liquor Centre  
Ngaio Super Mart  
Ngaio Discount Liquor  
Brew New Zealand  
Glengarry

Online Submissions to Wellington City Council's Draft LAP

Submitters Name:	Contact Address:	Email Address:	Phone Numbers:	
Justin McKenzie	PO Box 9582, Marion Square, Wgtn 6141	justin@hawthornlounge.co.nz	6421506906	I wish to discuss the main points of my submission at a hearing.

10 minutes: 10.50 am 8/8/2013



Do you think that a designated Entertainment Precinct with later hours than the rest of the City CBD:				
<p>Do you think that the Council should designate a specific Entertainment Precinct with later hours than the rest of the City CBD?</p>	<p>Is anti-competitive?</p>	<p>Will limit the evolution of the city's growth by limiting later trading to one designated area?</p>	<p>Will result in higher rents and increased costs for the bar / cafes / restaurants in the Entertainment Precinct?</p>	<p>Comments:</p>
<p>No</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>	<p>We have operated a late night bar outside of the proposed precinct for 7 years. The bar is regarded as one of the best bars in New Zealand, if not the southern hemisphere. Recently winning the Capital award for best bar in Wellington, Best bartender &amp; Best beverage list. We have operated professionally &amp; without incident for the entire 7 years. The proposed zone will limit our ability to continue to do what we do so well!</p>

<p>The proposed trading hours in the Entertainment Precinct for On-licenses (bars, nightclubs restaurants) are 7am-3am (7am- 5am for best-practice premises). What do you think the latest trading hour in the Entertainment Precinct should be (if one is created)?</p>	<p>Outside of the Entertainment Precinct in the City CBD the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am-2am (7am-3am for best-practice premises). What do you think the latest trading hour in the City CBD should be?</p>
<p>Response</p>	<p>Comments:</p>
<p>6:00:00 a.m.</p>	<p>Response</p>
<p>4:00:00 a.m.</p>	<p>Comments:</p>

<p>In Suburban Centres the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am-midnight. What do you think the maximum trading hour in Suburban Centres should be?</p>		<p>The policy proposes a 'wind down hour' protocol for premises open after 2am, whereby the lighting is turned up, the music turned down, and during this last hour the premises is open you could not purchase a drink (this in effect results in a closing time of an hour earlier than the licensed hour for the premises). Do you think this should be compulsory for all premises that are open after 2am?</p>
<p>Response</p>	<p>Comments:</p>	<p>Response</p>
<p>1:00:00 a.m.</p>		<p>Comments:  I do not agree that licensed premises should be responsible to provide a free space for people to linger for an hour at the end of the evening incurring costs to do so &amp; not be able to generate income to pay for those costs.</p>

The Council are proposing the following conditions could be imposed on a licensed premise. Do you agree? Please select Yes or No for each proposed condition.

A 'one way door' after a set time whereby no one else is allowed into the premises but those inside may remain	No	A limit on the number of drinks sold in any one transaction after a certain time	No	A minimum number of security staff set by the Council	No	Compulsorily dedicated staff to manage all queues	No	A minimum number of Duty Managers	No	Premises to pick up litter within a certain area	Yes	Security staff to wear High Viz Vests	Yes	No glass drinking vessels permitted in any outside area past a certain time	No	All outside temporary furniture to be removed after a certain time	Yes	No loudspeaker, amplifier, or other audio equipment outside the premises.	No	Compulsorily CCTV	No	Comments:	I disagree strongly with the above suggestions. A number will undermine the vibrancy of Wellingtons hospitality industry & definitely increase the operating costs for the operators & customers.
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Do you think the safety and vibrancy of the City Centre would be enhanced by the following?

Better public transport options at night	Yes	More lighting in the CBD	Yes	More CCTV cameras in public spaces	No	More street entertainment	No	More food trucks late at night	No	A chill out zone with water, food, transport information, medical assistance	No	More enforcement of liquor bans	Yes	An instant fine for being intoxicated and/or being a nuisance in a public place	Yes	A trespass from the city centre for 90 days if caught	Yes	Greater Police presence	Yes	Comments:
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<p>The proposed trading hours for Off-premises (supermarkets and bottle stores) are 7am-9pm. What do you think the maximum trading hours for Off-premises should be?</p>	<p>Do you think that supermarkets should have the same trading hours as other Off-premise venues such as bottle stores?</p>
<p>Response</p>	<p>Response</p>
<p>9:00:00 p.m.</p>	<p>Comments:</p> <p>I would like to see Off-licensed premises closing at 9pm. This will create a self policing of peoples consumption as they will need to visit a licensed premise after this time. A place where regulation &amp; fines are a part of our daily management</p>
<p>Comments:</p> <p>I believe it is easier to retrain our society about liquor consumption by limiting access in sale of liquor at off premise outlets where volume sales can be made to the suggested hours 7am - 9pm</p>	<p>Response</p> <p>Yes</p>

<p>Overall, do you agree with the direction of the draft Local Alcohol Policy?</p>		
<p>Response</p>	<p>Please give reasons:</p>	<p>Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?</p>
<p>Agree</p>	<p>Things need to change, but over reaction will only cause a more dramatic impact on our fine city. We operate a vibrant entertainment destination - lets not become Auckland!</p>	<p>I would like the opportunity to present our position in person at the hearings, How do I go about this?</p>



## Submission on Wellington City Council's draft Local Alcohol Policy

2<sup>nd</sup> August, 2013

Alcohol Healthwatch is an independent charitable trust working to reduce alcohol-related harm. We are contracted by the Ministry of Health to provide a range of regional and national health promotion services. These include: providing evidence-based information and advice on policy and planning matters; coordinating networks and projects to address alcohol-related harms, such as alcohol-related injury, fetal alcohol spectrum disorder, supply to minors and tertiary student drinking; and coordinating or otherwise supporting community action projects.

Thank you for the opportunity to provide feedback on Wellington City Council's draft Local Alcohol Policy.

We would appreciate being contacted about the possibility of providing an oral submission also.

If you have any questions on the comments we have included in our submission, please contact:

Amy Robinson

Health Promotion Advisor

Alcohol Healthwatch

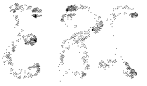
P.O. Box 99407, Newmarket, Auckland 1149

P: (09) 520 7038

directo@ahw.org.nz

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me





## **1. Introduction**

Firstly, we would like to commend the Wellington City Council on the work they have done on developing the policy thus far.

Our feedback is based on the following fundamental understandings:

- 1) The Sale and Supply of Alcohol Act 2012 provides for territorial authorities to develop a Local Alcohol Policy. This was in response to widespread community concerns and objections throughout New Zealand to the proliferation of outlets, the proximity of off-licences to sensitive sites such as schools, their associated visual impact and other impacts on communities.

Therefore we assert that Local Alcohol Policies must directly and effectively address these concerns.

- 2) The content of a Local Alcohol Policy must be determined on its ability to contribute to achieving the object of this Act, that being:
  - *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.*

*For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—*

- *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).*

Therefore, a Local Alcohol Policy must seek to do two things: Firstly, it needs to reduce the significant levels of alcohol-related harm that already exists and secondly; it needs to prevent further alcohol-related harm from happening (where able).

- 3) While acknowledging that Local Alcohol Policy content is limited to licensing matters, they do provide great potential to address the key risk factors of accessibility and availability of alcohol through restricting the density, location, proximity and operation of licensed premises. In relation to the matters relevant to the Local Alcohol Policy, the evidence-base of effectiveness for reducing alcohol-related harm is strongest for reducing the trading hours of alcohol outlets and reducing the numbers of alcohol outlets. With this in mind, it is important that if this policy is indeed to meet its objective, these two policy interventions will be prioritised.

With these understandings in mind Local Alcohol Policies must:

- 1) Be evidence-based and include mechanisms that will effectively reduce the accessibility/availability of alcohol.
- 2) Reflect community wishes to restrict the number and location of alcohol outlets and the hours that they operate.
- 3) Work effectively to address existing issues and prevent harm.

In our submission we have provided comments only on the sections of the draft policy that we have outlined.

## **2. Policy Principles**

Alcohol Healthwatch affirms and supports all of the policy principles outlined except for principle number three. We also provide some comments under principles nine, ten and eleven below.

### **3. Incentivising best practice in reducing alcohol harm**

This principle states that operators that manage their premises well will be eligible for extended trading hours and proportionally lower fees related to their risk classification. We believe the ability to extend trading hours creates a conflict with other principles that are outlined in this policy, the Object of the new Act and the intent of Local Alcohol Policies. The new legislation creates the imperative that all licensed premises operate at a high level. We recommend the removal of this principle or at the very least a deletion of the words “extended trading hours and”. An extension of trading hours should not be used as a bartering tool, particularly when we know how strong the evidence is around restricted trading hours reducing alcohol-related harm.

## 9. Community involvement

The opportunities for community involvement in this policy are primarily based around public hearing processes. There are two processes through which communities can be involved; 1) during the development of the Local Alcohol Policy and 2) during individual liquor licence processes. Challenging liquor licence applications and renewals places a lot of burden on communities and individuals that often have to face up to powerful vested interests and their professional legal teams. Ideally, a good Local Alcohol Policy would alleviate this issue. Communities need to also feel that they have a valid voice during liquor licensing processes. They need to have access to the information they require to have informed input and be given clear communications about opportunities for engagement and notification of licence applications and renewals. For example, direct notification should be given to communities and sensitive sites that are within a certain distance of proposed licences.

## 10. Fairness

The new legislation is based on the Law Commission review<sup>1</sup> which found a) significant levels of alcohol-related harm in New Zealand and b) high levels of community concern about how this harm was going to be addressed. Additionally, it's the Government's intent to reduce the availability and accessibility of alcohol through the new legislation. To achieve this, some changes will need to be made to the current status quo which may not be popular with everyone. Existing businesses have contributed to the significant levels of harm that alcohol misuse is causing and therefore restrictive mechanisms need to be introduced to rebalance the situation. Territorial Authorities will need to ensure that alcohol matters are not unduly influenced by vested interest groups.

## 11. Conflict resolution

We note that the policy acknowledges that alcohol often causes conflicts of interest. The Law Commission report spoke of the "unbridled commercialisation of alcohol" and how this has contributed to the significant levels of alcohol-related harm that are now apparent. While we realise that

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<sup>1</sup> Law Commission (2010). *Alcohol in our lives: Curbing the harm. A report on the review of the regulatory framework for the sale and supply of liquor*. Wellington: New Zealand.

Council's will not want to get tied up in legal challenges we ask that they bear this in mind when resolving any conflicts. Communities should at least be able to expect Council's to give equal consideration to their concerns.

### **3. Maximum Trading Hours**

The weight of evidence suggests that restrictions on opening hours and days of sale are important policy levers for reducing alcohol-related harm.

Babor et al (2010)<sup>2</sup> summarise the evidence for restricting trading hours "...there is strong and reasonably consistent evidence from a number of countries that changes to hours or days of trade have significant impacts on the volume of alcohol consumed and on the rates of alcohol-related problems". The authors go on to say that when hours and days of sale are increased, consumption and harm increase, and vice versa.

The evidence also suggests that for every hour of earlier closing, the further alcohol-related harm will be reduced.

We do not believe that an extension of trading hours beyond the maximum national default hours is consistent with the Object of the new Act. The draft policy discusses the impact alcohol has on Wellington, stating that Police statistics 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 (p.12). A 5am closing time therefore contradicts the Object of the Act. The new trading hours will need to be significantly reduced from the current trading hours if a reduction in alcohol-related harm is to be achieved.

In summary, Alcohol Healthwatch supports:

- 1. The proposed trading hours except for those in the Entertainment Precinct that are best practice operators. We strongly oppose an extension of trading hours beyond the maximum national default hours.*

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<sup>2</sup> Babor et al (2010). *Alcohol No Ordinary Commodity: Research and Public Policy*. 2<sup>nd</sup> ed. Oxford University Press (p.145).

Ideally, Alcohol Healthwatch recommends the following trading hours for licensed premises:

On-licences

*We recommend on-licences in all areas of the central city to be open between 10am – 2am with a mandatory one way door from 12am.*

*We recommend all on-licences in suburban and rural areas to open between 10am-12am with a discretionary one way door from 11pm.*

Off-licences

*10am-9pm for all premises.*

*There should be no exemptions for supermarkets.*

#### **4. One way doors**

ALAC conducted an evaluation of the Christchurch one-way-door intervention in 2008<sup>3</sup>. The evaluation found that while there was no overall reduction in alcohol-related crime in the inner city, there were reductions in some subsets of crime. It also showed that the one-way door intervention relied on effective working relationships by all parties, including Police and licensees.

Additionally, In Dunedin in 2008 about 25 inner-city bars took part in a one-way door trial for 3 months and they found reduced alcohol-fuelled violence in the central city<sup>4</sup>.

Anecdotal evidence from licensing inspectors and NZ Police appears to be strong for one-way door policies.

In the Wellington City Council's draft Local Alcohol Policy it appears that one-way doors will only be utilised as a discretionary condition that may be applied to on-licences. This may result in a haphazard approach leading to less

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<sup>3</sup> Law Commission (2010). *Alcohol in our lives: Curbing the Harm. A report on the review of the regulatory framework for the sale and supply of liquor*. Wellington: New Zealand.

<sup>4</sup> NZ Police (2009). *Policing Fact Sheet: Licensed premises trading hours*. Prepared by: Organisational Performance Group, Police National Headquarters: Wellington.

effective outcomes than if this mechanism was applied consistently as part of a comprehensive approach.

*Alcohol Healthwatch recommends:*

- 1) That mandatory one way doors be implemented in the central city and entertainment precinct areas.*
- 2) That one way doors are timed to prevent problems with migration between suburban areas and the city centre premises.*
- 3) That one way doors are utilised as supportive tool to a comprehensive Local Alcohol Policy and a monitoring and evaluation framework is integrated to ensure they are resulting in desired outcomes.*

### **5. Density and Proximity (Location)**

As mentioned in the introduction, the evidence shows that reducing the number of liquor outlets best supports a reduction in alcohol-related harm. As Babor et al (2010) found; “Restricting the number of places where alcohol can be sold has been widely used to reduce alcohol-related problems by limiting consumption”<sup>5</sup>.

In New Zealand research undertaken by the former ALAC (conducted by the University of Waikato) in Manukau City found several key results relating to the characteristics of alcohol sales in this area.

1. Off-licence outlet density is related to social deprivation, i.e. higher relative deprivation is associated with a higher density of off-licence outlets
2. Areas with a higher density of off-licence outlets have higher competition between those outlets, leading to lower prices, longer operating hours and later weekend closing times
3. Higher numbers of off- and on- licences is associated with a higher number of total police events. In particular, off-licence density is

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<sup>5</sup> Babor et al (2010). *Alcohol No Ordinary Commodity: Research and Public Policy*. 2<sup>nd</sup> ed. Oxford University Press. P.131.

associated with higher levels of anti-social behaviours, drug and alcohol offences, family violence, property abuse, property damage, traffic offences and motor vehicle accidents. On-licence density is associated with higher levels of dishonesty offences and property damage<sup>6</sup>.

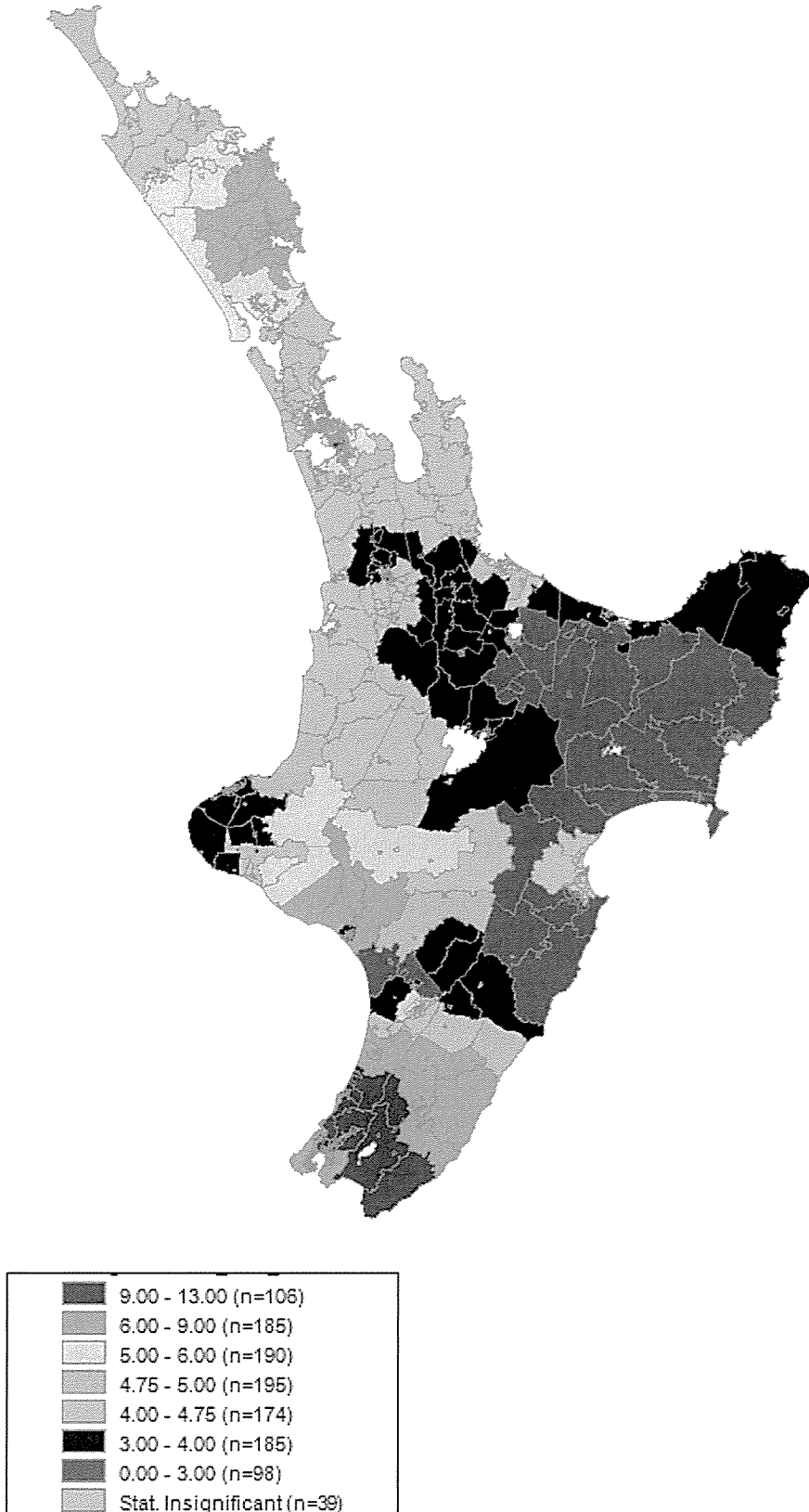
More recently a more extended study of the whole North Island found that the relationship between the density of bars and nightclubs and violent offences was highly significant. When looking at this relationship for the entire North Island from 2006-2011, the research shows that an additional bar or night club is associated with an additional **5.3 violent offences per year** on average (and significantly associated with all types of police events that were studied, and motor vehicle accidents)<sup>7</sup>.

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<sup>6</sup> Cameron, M.P., Cochrane, W., McNeill, K., Melbourne, O., Morrison, S., & Robertson, N. (2009). The impact of liquor outlets in Manukau City – Summary Report-Revised. Wellington: ALAC.

<sup>7</sup>.Cameron, M.P., Cochrane, W., Gordon, C., and Livingston, M. (2013). *The Locally-Specific Impacts of Alcohol Outlet Density in the North Island of New Zealand, 2006-2011*, research report commissioned by the Health Promotion Agency, Hamilton: National Institute for Demographic and Economic Analysis, University of Waikato.

The relationship between bar and night club density and violent offences in the North Island, 2006-2011





As mentioned earlier, the research clearly demonstrates that reducing the number of outlets that sell alcohol will reduce levels of alcohol-related harm. We therefore recommend stronger mechanisms are put in place in the draft Local Alcohol Policy to achieve reduced numbers of outlets.

*Alcohol Healthwatch recommends:*

*1) A regional cap is placed on all licences across Wellington. This will allow for redistribution of premises and enable new licences to open in growth areas as long as the number that it is capped at is not exceeded.*

*2) The 'cap' total could be set at the number of premises that are operating on December 18<sup>th</sup> 2013.*

*3) A localised sinking lid is supported in the Local Alcohol Policy as density mechanism and so that communities can decide if this is appropriate for their area.*

*4) That the policy specifies a list of sensitive sites to be used when inspectors are assessing the licence application/renewal for proximity effects. Examples of sensitive sites that have been identified in our community forums include: rest homes, schools, early childhood centres, marae, churches and other places of worship, A & D treatment and health services.*

*5) That the criteria used by inspectors for the assessment of density and proximity reflect the description of harm in the Object of the Act.*

### **Discretionary Conditions**

We commend the Wellington City Council on the comprehensive list of discretionary conditions that has been listed in the draft policy. We do however believe that the more consistently these are applied the more effective they will be. We also believe that discretionary conditions are best used as an additional part of the Local Alcohol Policy toolbox, to support the measures we know will make a difference such as reduced hours and numbers of outlets.

Additionally, the exposure to alcohol advertising has been shown to lower the age that young people start to drink and make it more likely for them to drink heavily. After reviewing 13 longitudinal studies that reported on 38,000 young people, Anderson and others (2009)<sup>8</sup> found consistent evidence to link alcohol advertising with the uptake of drinking among non-drinking youth and increased consumption among their drinking peers. Anderson noted that these results were not surprising, as exactly the same conclusions have emerged from reviews of the impact of tobacco and food marketing on young people. The visual impact of alcohol advertising on and around licensed premises can be controlled via discretionary conditions, particularly surrounding sensitive sites. We hope that this mechanism will be utilised in this policy.

We would also like the policy to consider conditions for licences that would help to address price discounting, such as happy hour type promotions.

*Alcohol Healthwatch recommends:*

- 1) That a suite of discretionary conditions are selected for standardised application. This will help the ease of application and enforcement of the conditions and will be improve the understanding for patrons.*
- 2) That the policy also considers conditions for licences that would help to address price discounting, such as happy hour type promotions.*
- 4) That discretionary conditions will control the visual impact of alcohol advertising on licensed premises, particularly in surrounding areas of sensitive sites.*

### **Host responsibility and Late night trading/off-licence conditions**

We support the emphasis that the draft policy places on licensees to demonstrate that a comprehensive host responsibility programme is in place and is being actively promoted. It helps to clarify the expectations of the new Act.

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<sup>8</sup> Anderson P et al (2009). Impact of Alcohol Advertising and Media Exposure on Adolescent Alcohol Use: A systematic review of longitudinal studies. *Alcohol & Alcoholism*. 44:229-242.

Additionally, we support the list of conditions that will be placed on late night traders. As detailed above, the later premises are open the more likely they are to contribute to alcohol-related harm. Therefore, late night traders should have extra conditions placed on them and have higher fees to pay for the privilege to stay open longer.

### **Public Notification and Participation**

We support the three strategies listed in the draft policy (better availability of licence information to the public, automatic hearing process for new or renewal applications in areas of the city over-represented in alcohol-related harm data and the clear explanation and widely communicated public objection rights and processes) that will give communities the opportunity for input and participation in the process.

We would encourage the Council to take proactive steps to ensuring the public are effectively notified and have good opportunities to have meaningful input into the development and implementation phases of the policy. We also recommend that communications are both widespread (to achieve appropriate reach) and targeted (to ensure communities receive the information that they require).

*Alcohol Healthwatch recommends:*

- 1) Notification advertisements and communications are easily visible, accessible and are widespread (to ensure adequate reach) and targeted (to reach different parts of the community).*
- 2) Various communication methods are utilised to ensure different groups of the community are reached.*
- 3) Direct notification is provided to communities and sensitive sites within a specified radius of the proposed licence.*

### **Application of the Policy**

Under the section, 'Limits by licence kind (General and otherwise), it states that from a regulatory perspective, on-licence and club-licence premises are

different than off-licence premises due to their ability to provide a controlled environment for the consumption of alcohol and that off-licence premises are more likely to contribute to alcohol abuse and unsafe public environments. While the research does indicate that off-licence sales of alcohol do contribute to significant levels of harm, on-licence and club licences contribute to much alcohol-related harm also (as shown in the map above for bars and nightclubs). For club licences, sports clubs in particular, have shown up in the research and anecdotally as contributing to the risky drinking behaviours exercised by those involved<sup>9</sup>. All licence types need to be regularly monitored throughout the year to ensure they are operating at the expected high level.

*Alcohol Healthwatch recommends:*

- 1) *Every premise in the region receives at least 2 compliance visits a year*
- 2) *High risk premises are monitored more extensively to bring them up to best practice levels of operation.*

### **Irresponsible promotion of alcohol**

We are pleased to see the inclusion of the Council's expectations around inspectors actively monitoring premises' compliance with the Act in respect of offence provisions related to the irresponsible promotion of alcohol.

### **Community Involvement and Public Notification**

Historically, the liquor licensing notification process has been insufficient in giving the public adequate notification of impending licence applications/renewals. A few factors may be at play here including the placement and size of the advertisements in the newspaper and the timing of the advertisements. Hence, many notifications have been missed by the public and other interested parties and they have been unable to lodge an objection in time. This type of notification process has not been conducive to community participation. As Local Alcohol Policies are intended to reflect community wishes we must ensure that they enable community participation in the consultation processes to the best of our ability. We are also aware that parts

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<sup>9</sup> O'Brien, K. (2011). Commentary on Terry-McElrath & O'Malley (2011): Bad sport – exorcizing harmful substances and other problems. *Addiction*, 106, 1866-1867.

of the population do not have access to the internet which poses problems if that is the only other communication channel for notifications.

We believe notification processes need to be designed so that they are both widespread but also targeted appropriately towards communities. The communications should also be proactive and be encouraging of community input. For example, guidelines around notification via other Council communication channels such as through newsletters and other Council publications; direct written notification from the Territorial Authority to all submitters to the draft policy providing a copy of the provisional policy and the rights of appeal and the grounds on which appeals may be made; and guidelines outlining the expectations of any online communications, for example that they are to be designed for that purpose and be easily accessible. There needs to be a variety of communication channels (for example, online via Twitter, Facebook and website, written via letter, newspaper, magazines and publications and verbal via the radio) for the notification process so that different groups of the community can be informed.

*Alcohol Healthwatch recommends:*

*1) As stated in the recommendations above under public notification and participation.*

### **Special Licences**

In general we support the draft policy's proposals for special licences. However, under the additional requirements for large scale events it states that the DLC may call for a list of three requirements of licensees. Due to the high levels of alcohol-related harm that often occurs at large-scale events strict requirements should be placed on these special licences.

Public Health licensing inspectors and health promoters can also be a valuable source to include in planning for large scale events.

*Alcohol Healthwatch recommends:*

*1) That in the first paragraph under the heading 'Additional requirements for large-scale events' on pg. 70 of the draft policy, the last part of the sentence should be changed from 'the DLC may' to 'the DLC must'.*

*2) That 'public health agencies' should be included in the third requirement of this list as an additional group for the holder of the special licence to work with on planning for the event (p.70). The third requirement should be amended to read 'require the applicant to work with the Police, public health agencies and the Territorial Authority on planning for the event'.*

### **Conclusion**

Overall, we support the direction that this policy takes and commend the Wellington City Council on the work it has undertaken thus far in developing the draft Local Alcohol Policy.

However, we strongly oppose the trading hours that have been proposed for best practice operators in the Entertainment Precinct. The proposed closing time of 5am will either contribute to maintaining or increasing the current levels of alcohol-related harm. We also recommend stronger mechanisms such as a regional cap on licences and a localised sinking lid option be utilised to reduce the number of liquor outlets in the Wellington region. The evidence is very clear that both a reduction in hours and a reduction in the number of liquor outlets will make a significant difference in reducing alcohol-related harm. Without these two issues being dealt with appropriately, the intent (that is, reduced availability and accessibility of alcohol) of the Local Alcohol Policy will not be achieved.

**Jaime Dyhrberg**

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**From:** on behalf of BUS: Alcohol Strategy  
**Subject:** FW: The Right Mix - Confirmation

From: Wellington City Council [mailto:webcentre@wcc.govt.nz]  
Sent: Thursday, August 01, 2013 2:53 PM  
To: BUS: Alcohol Strategy  
Subject: The Right Mix - Confirmation

The following details have been submitted from the Draft Alcohol Management Strategy and the Draft Local Alcohol Policy consultation form on the Wellington.govt.nz website:

PAGE 1 QUESTIONS

Submitter details:

First Name: Catherine  
Last Name: Healy  
Street Address: 204 Willis St  
Suburb: Wellington  
City: Wellington  
Phone: 043828791  
Email: info@nzpc.org.nz

I would like to make an oral submission. Yes Phone number: 043828791

I am giving this feedback: on behalf of an organisation Organisation name: New Zealand Prostitutes Collective

PAGE 2 QUESTIONS

Under the proposed zone framework, late-night trading activity of bars and entertainment venues (after 2am or until 3am at the latest) will be moved into a specific Entertainment Precinct in the city to better manage the harm associated with trading at this time.

Strongly Disagree

Comments:

Risk-based management framework

Agree

Comments:

Entertainment Precinct maximum trading-hour restrictions for on-licensed

*Long left message Booked.*



venues Strongly Disagree

Comments:

Central Area maximum trading-hour restrictions for on-licensed venues

Strongly Disagree

Comments:

Suburban Centre maximum trading-hour restrictions for on-licensed venues

Strongly Disagree

Comments:

The proposed maximum trading-hour restrictions of 7am - 9pm for off-licensed venues (supermarkets, grocery stores, bottle stores) Strongly Disagree

Comments:

Treating all off-licence venues the same Agree

Comments:

### PAGE 3 QUESTIONS

Council focus on applications for youth-focussed occasions or events Agree

Comments:

The proposed circumstances that would trigger a District Licensing Committee hearing for dealing with issues of density and proximity of licensed premises

Comments:

The proposed discretionary conditions that could be applied to a licence.

Comments:

Overall, do you agree with the direction of the draft Local Alcohol Policy?

Strongly Disagree

Your comments (be specific):

What are the best aspects of the draft Local Alcohol Policy?

See written submission

What aspects of the draft Local Alcohol Policy do you think need to be changed?

See written submission

Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?

See written submission



## PAGE 4 QUESTIONS

The proposed goals in the draft Alcohol Management Strategy are achievable.

Strongly Disagree

Comments:

The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals.

Strongly Disagree

Comments:

The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol.

Strongly Disagree

Comments:

**SUBMISSION OF THE NEW ZEALAND PROSTITUTES COLLECTIVE TO THE  
WELLINGTON CITY COUNCIL  
ON THE  
LOCAL ALCOHOL POLICY**

1. We represent the New Zealand Prostitutes Collective (NZPC), which is concerned about the safety, health and rights of sex workers. We provide services to sex workers throughout New Zealand. We wish to be heard in relation to the effects the proposed Wellington Local Alcohol Policy (“LAP”) will have on sex workers in Wellington.
2. We are seriously concerned about the proposed changes as they may have serious effects upon the employment and working conditions of significant numbers of sex industry workers in the Wellington District.
3. Our submission is based upon the following criteria:-
  - (a) To observe the purpose behind the Prostitution Reform Act 2003 (“The Act”), which is to:-
    - (i) safeguard the human rights of sex workers and protects them from exploitation; and
    - (ii) promote the welfare and occupational health and safety of sex workers.; and
    - (iii) ensure that sex workers are provided with controlled environments conducive to public health
  - (b) Large numbers of sex industry workers are dependent on work in managed commercial sex venues, such as brothels and strip clubs with liquor licences. This is particularly true for dancers in strip clubs.
  - (c) While some dancers will seek self employment by dancing for private parties, in the main, they are more protected in managed environments, such as those clubs that currently exist within the Wellington CBD.
  - (d) For a large number of sex workers their busiest time is generally between the hours of 1.00am to 7.00am.
4. Strip clubs and brothels have had a long history of providing commercial sex services within the Wellington CBD, and have usually provided alcohol while doing so, within the context of liquor licensing.

5. While we have a concern about alcohol and its potential impact on safer sex cultures within the sex industry, we recognise that it is better that alcohol be sold in a licensed, and therefore more controlled, environment, and not be driven underground into a context where “complimentary” drinks, which may be unlimited, are served in unlicensed, and potentially uncontrolled, settings.
6. NZPC’s concern is if the sale and supply of alcohol by brothels and strip clubs is not permitted during the hours of 1.00am to 7.00am 7 days a week, then this proposed plan by the Council may result in these significant brothel and strip club businesses closing down, and thereby reducing the work options available for many of these sex industry workers.
7. We realise there is a fine line between providing alcohol, commercial sexual services, and exotic dancing. NZPC notes that clients are unlikely to visit these inner city brothels and strip clubs after 1am if access to alcohol is restricted. There are some unique features that we urge the Council to take into account as it considers this proposed LAP. For many, working in these clubs is their primary means of income and employment; and it is a late night activity, which is often complemented by a social environment. If the LAP is passed, it would have a considerable impact on the sex industry, and probably result in dancers and a significant number of sex workers losing their livelihood, as it may be difficult for people to find other work in brothels or strip clubs., or finding any other work.
8. We share the concerns of those from the sex industry who have submitted that this LAP will considerably undermine the working conditions and options of sex workers.
9. We wish to give oral submissions on 8<sup>th</sup> August 2013 as a follow up and in support of this written submission.

Catherine Healy  
National Co-ordinator  
New Zealand Prostitutes Collective  
PO Box 11-412  
Manners St  
Wellington 6142  
Ph: 04 382 8791

# Extracts from the Prostitution Reform Act 2003.

## 3 Purpose

The purpose of this Act is to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use) and to create a framework that—

- (a) safeguards the human rights of sex workers and protects them from exploitation:
- (b) promotes the welfare and occupational health and safety of sex workers:
- (c) is conducive to public health:
- (d) prohibits the use in prostitution of persons under 18 years of age:
- (e) implements certain other related reforms.

## 5 Definition of operator

(1) In this Act, **operator**, in relation to a business of prostitution, means a person who, whether alone or with others, owns, operates, controls, or manages the business; and includes (without limitation) any person who—

- (a) is the director of a company that is an operator; or
- (b) determines—
  - (i) when or where an individual sex worker will work; or
  - (ii) the conditions in which sex workers in the business work; or
  - (iii) the amount of money, or proportion of an amount of money, that a sex worker receives as payment for prostitution; or
- (c) is a person who employs, supervises, or directs any person who does any of the things referred to in paragraph (b).

(2) Despite anything in subsection (1), a sex worker who works at a small owner-operated brothel is not an operator of that business of prostitution, and, for the purposes of this Act, a small owner-operated brothel does not have an operator.

## 9 Sex workers and clients must adopt safer sex practices

(1) A person must not provide or receive commercial sexual services unless he or she has taken all reasonable steps to ensure a prophylactic sheath or other appropriate barrier is used if those services involve vaginal, anal, or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections.

(2) A person must not, for the purpose of providing or receiving commercial sexual services, state or imply that a medical examination of that person means that he or she is not infected, or likely to be infected, with a sexually transmissible infection.

(3) A person who provides or receives commercial sexual services must take all other reasonable steps to minimise the risk of acquiring or transmitting sexually transmissible infections.

(4) Every person who contravenes subsection (1), subsection (2), or subsection (3) commits an offence and is liable on conviction to a fine not exceeding \$2,000

### **10 Application of Health and Safety in Employment Act 1992**

(1) A sex worker is at work for the purposes of the Health and Safety in Employment Act 1992 while providing commercial sexual services.

(2) However, nothing in this Act (including subsection (1)) limits that Act or any regulations or approved codes of practice under that Act.

### **36 Disqualification from holding certificate**

(1) A person is disqualified from holding a certificate if he or she has been convicted at any time of any of the disqualifying offences set out in subsection (2), or has been convicted of an attempt to commit any such offence, of conspiring to commit any such offence, or of being an accessory after the fact to any such offence.

(2) The disqualifying offences are as follows:

(a) an offence under this Act (other than an offence under section 39(3), section 40(2), and section 41(3)):

(b) an offence under any of the following sections or Parts of the Crimes Act 1961 that is punishable by 2 or more years' imprisonment:

(i) section 98A (participation in an organised criminal group):

(ii) sections 127 to 144C (includes sexual crimes):

(iii) Part 8 (includes murder, manslaughter, assault, and abduction):

(iv) sections 234 to 244 (robbery, extortion, and burglary):

(v) section 257A (money laundering):

(c) an offence under the Arms Act 1983 that is punishable by imprisonment:

(d) in relation to the Misuse of Drugs Act 1975,—

(i) an offence under section 6 (other than possession of a Class C controlled drug):

(ii) an offence under section 9, section 12A, section 12AB, or section 12B:

(iii) an offence under any other section, but only if it relates to a Class A or a Class B controlled drug.

Section 36(2)(d)(ii): amended, on 22 June 2005, by section 23 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

org

**Giselle Baretta**

**From:** Bradley Watson [Bradley.Watson@cgml.co.nz]  
**Sent:** Friday, 2 August 2013 11:46 a.m.  
**To:** BUS: Alcohol Strategy  
**Attachments:** Submissions\_Wgtn\_LAP\_Mermaids\_1.8.13.pdf  
Friday, 2 August 2013

SUBMISSION 290

refer attached submission.

FOR THE ATTENTION OF: JAMIE DYHRBERG.

ATTACHED: Submissions on behalf of MERMAIDS in Wellington.

PLEASE NOTE we have instructed Mr Alastair Sherriff of Buddle Findlay to present oral submissions on our behalf on 8 August 2013. He will also be giving oral submissions on behalf of Il Bordello, Splash Club and Cubic Bar (in Willis Street Wellington); in total 4 sets of submissions in support of 4 written submissions.

We would appreciate if you could liaise directly with Alastair Sherriff to book in a time for him to present his oral submissions between the hours of 5.00pm to 8.00pm on 8 August 2013.

Please feel free to contact the writer should you require any further information or assistance.

Yours faithfully

**CHOW GROUP LIMITED**

Per: Bradley J Watson LLB

Email: [Bradley.watson@cgml.co.nz](mailto:Bradley.watson@cgml.co.nz)

Mble: 021 858 726

Landline: (09) 222 0888

booked



Friday 8 August 2013

**CONFIRMATION OF  
WRITTEN  
SUBMISSIONS  
EMAILED TO YOU ON  
FRIDAY 8 AUGUST  
2013 AT 11.46AM ON  
BEHALF OF  
MERMAIDS**



To: Jaime Dyhrberg  
Community Networks  
Wellington City Council  
PO Box 2199  
WELLINGTON 6140

EMAIL: [alcoholstrategy@wcc.govt.nz](mailto:alcoholstrategy@wcc.govt.nz)

# HOW WE MANAGE ALCOHOL IN WELLINGTON SUBMISSION FORM



I wish to discuss the main points in my written submission at a hearing, to be held in early August 2013 (note oral submissions are given five minutes for individuals and 10 minutes for organisations).

I am completing this submission:

On my own behalf       On behalf of a group or organisation

If you are representing a group or organisation, how many people do you represent? **80**

Your name Michael Chow

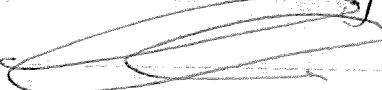
Organisation name (if applicable) B&N Entertainment Ltd trading as MERMAIDS

Organisation role (if applicable) Current Liquor Licence Holder

Contact address 9- Chow Group Ltd. P.O Box 19123  
Courtenay Place, Wellington Post code 6149

Phone number (day) 64 4 978 9735 Phone number (evening) 029 230 8090

Email (if applicable) michael.chow@ccml.co.nz

Signature  Date 1 August 2013

## DRAFT LOCAL ALCOHOL POLICY

1. Please indicate your level of satisfaction with the following provisions in the draft LAP.  
\*If you disagree, please tell us what you would like the provision to be changed to.

- 1a. Under the proposed zone framework, late-night trading activity of bars and entertainment venues will be moved into a specific Entertainment Precinct to better manage the harm associated with trading at this time.

The proposed Entertainment Precinct boundaries are Courtenay Place (Kent Terrace) to Cuba Street (Abel Smith Street).

(section 9 of the draft LAP)

Creating an Entertainment Precinct: (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. The proposed boundaries fail to recognise how essential it is that long standing, trouble free, 24/7 licensed establishments such as Il Bordello situated at 146 Vivian Street, Wellington, be included as part of the Entertainment Precinct, in order to:-
  - (a) Observe the object behind the LAP to provide a vibrant and dynamic central city for Wellington, in line with international models; and
  - (b) Ensure that the LAP provides "Activity Mix" as detailed on page 18 of the proposed LAP.
2. Failure to recognise establishments such as Il Bordello as essential venues in order to achieve the objects of the LAP, results in unfairness and entirely in conflict with Point 10 of the LAP.
3. Il Bordello is situated immediately adjacent to the current proposed Entertainment Precinct Boundary bordering Cuba Street. All that is required by the Council and sort by this submission, is an adjustment to the area of the Entertainment Precinct to include 146 Vivian Street Wellington.
4. Failure to recognise the need to include brothels and strip bars which currently fall just outside the "border" of the Entertainment Precinct, as part of this precinct, would effectively prevent these venues from operating after 3.00am. This would mean that Wellington could return back to pre 2003 and the Prostitution Reform Act, as the current controlled environment that Il Bordello and other brothels and strip clubs provide, keeps prostitution off the streets. If Il Bordello is unable to operate after 3.00am then prostitution would in all probability return to the streets as it was before 2003, because of the Council's short-sightedness.
5. It is essential that Wellington recognise the community service provided by Brothels and Strip Clubs and they should be appraised for this; not condemned!
6. We have been in talks with New Zealand Prostitutes Collective. Whom we work very closely with. They totally support our submissions and have lodged their own submissions, (copy attached), with a request to be able to give oral submissions as well.

- 1b. The proposed risk-based management framework reviews the suitability of all elements of the activity in relation to its impacts on the community, and provides a risk classification.

This classification will influence the licence fees charged by the Council and the types of conditions that may be applied to the licence. The lower the risk, the lower the fees charged by the Council and the fewer restrictions applied to the licence.

(section 8 of the draft LAP)

Risk-based management framework (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1c. The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafés).

Entertainment Precinct

7am–3am

7am–5am maximum for best-practice premises

Central Area

7am–2am

7am–3am maximum for best-practice premises

Suburban Centre

7am–midnight maximum

(section 9 of the draft LAP)

Entertainment Precinct maximum trading-hour restrictions for on-licensed venues

(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Central Area maximum trading-hour restrictions for on-licensed venues (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Suburban Centre maximum trading-hour restrictions for on-licensed venues (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. The maximum trading hour restrictions currently proposed under the LAP are too generalised, particular in regard to the categorisation of "Entertainment Venues". The LAP relies on the very generic characteristic of "premises used or intended to be used in the course of business principally by providing any performance or activity (not alcohol related), designed to engage and audience" to group venues as "Entertainment Venues". This includes at one end of the scale Cinemas and theatres, that by the very nature of the services provided, have no interest in operating late night licences, to brothels and strip clubs whose active trading period is between 3.00am to 7.00am, and which currently enjoy 24/7 licences which are different in their terms from on-licences for Taverns and Bars. (copy of current licence attached).

2. Wellington Council recognises Hospitality NZ's statistics as important, in that \$33 million in eftpos transactions occur during the time frame between 4.00am to 7.00am in Wellington alone; a clear indication of how very important it is that Brothels and strip clubs be entitled to continue to have the same trading hours as currently they are recognised as requiring, to maintain a healthy financial environment for Wellington City.
3. A solution would be to establish a new category called "Adult Entertainment". This would be a very selective but essential activity which would include brothels and strip clubs. This would:-
  - a. Recognise to what extent "Adult Entertainment" venues contribute to the liquidity of Wellington city; and
  - b. acknowledge the very real social service brothels and strip clubs provide to the community by providing controlled and healthy venues that recognise and rely upon the Prostitution Reform Act 2003; and
  - c. Appreciate that if "Adult Entertainment" Venues are not permitted to operate between the hours of 3.00am to 7,00am despite being in the Wellington CBD, there is a very real threat of prostitution returning to the streets. This carries with it the very real threat of uncontrolled alcohol abuse which could well lead to endangering the general public and placing sex industry workers in harm's way. Nobody wants this.
4. The sex industry is without question the oldest profession known to man-kind; it is never going to go away and therefore must be recognised and controlled. The LAP can ensure that control be maintained, and monitored by the DLA, by creating this new category and allowing holders of Adult Entertainment licences to continue operating 24/7 licences.
5. Wellington City Council need be reminded why the Prostitution Reform Act was enacted in 2003. From discussions with others, we learn that Helen Ritchie, who was a Wellington Councillor at that time, was a promoter of the legislation back in 2003, because she recognised the benefit it provided to the general public. Along these lines, perhaps Inspector Terrance van Dillen who was head of the Wellington vice squad pre 2003, might be asked to tell the Council how terrible the streets were before the Prostitution Reform Act became law. It is a very real concern that must be recognised that by effectively restricting the hours that brothels and strip clubs are permitted to operate, as a direct result of their inability to sell and supply alcohol between 3.00am to 7.00am, pre 2003 bad and unsafe days will return as the sex industry will have no alternative but to resort to street walking!. This has a very real danger of resulting in the abuse of alcohol and resulting harm and damage increasing on the streets of Wellington; one of the biggest dangers the LAP wants to avoid
6. Neither should holders of Adult Entertainment Licences be restricted from trading on Good Friday, Easter Sunday, the morning of Anzac day and Christmas day. They currently provide a very necessary service to the community by being entitled to operate on these days, without an increase in violence and alcohol abuse. The sale and supply of alcohol remains a secondary service; not a primary service.
7. An alternative could be through Wellington Council recognising Adult Entertainment Venues as short term hotels. This would enable them to maintain liquor licences 24/7 on any day of the week notwithstanding which precinct they may currently fall under the proposed LAP.
8. It is acknowledged that the District Licensing Committee guide to implementing the LAP states that the DLA will not take into account any prejudicial effect that the issue of a liquor licence may have on the business conducted pursuant to any other licence.

However, in view of the object of the LAP, to promote a vibrant late night environment by providing an Activity Mix (pg 18), we believe the DLA must recognise that a great number of strip clubs, such as Mermaids in Courtenay Place provides entertainment as it's primary business activity. This entertainment extends beyond dancing to also providing patrons with the option to enjoy gaming machines. Income generated from these gaming machines, pursuant to the Gambling Act, is applied towards approved public benefits. The bulk of this 'public income' is generated between the hours of 3.00am to 7.00am. The sale and supply of alcohol is a secondary service to these two entertainment activities to ensure a healthy and comfortable environment for patrons, in a controlled environment. Whilst neither of these primary business activities relies upon the sale and supply of alcohol as the means by which the business activities can carry on, common sense must prevail and the DLA must accept that reducing the hours that strip clubs can sell and supply alcohol, will have a major affect on income generated from gambling machines. It is not the prejudicial effect on the gambling business that is relevant; rather the prejudicial effect on public funds that are generated from the gambling machines that must be taken into consideration.

9. The Infinity Foundation Limited, who run the Infinity Gambling Trust, which is empowered to distribute our gambling machine proceeds to Charitable Trusts and the likes around New Zealand, also strongly support our submissions. They have provided us with their own submissions with a request that we lodge these on their behalf, along with ours. The Infinity Foundation submissions are attached.

- 1d. The proposed maximum trading-hour restrictions of 7am–9pm for off-licensed venues (supermarkets, grocery stores, bottle stores).

(section 9 of the draft LAP)

Maximum trading-hour restrictions of 7am–9pm for off-licensed venues  
(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1e. Supermarkets, grocery and bottle stores (all off-licence venues) should be treated the same despite the different range of products they sell.

- Supermarket and grocery stores can sell only beer and wine
- Bottle stores can sell beer, wine, spirits and RTDs (ready-to-drink mixes)

Treating all off-licence venues the same (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1f. The Council will look closely at applications for the sale and supply of alcohol at youth-focused occasions or events, or those likely to attract people under the legal purchase age of 18 years.  
(section 9 of the draft LAP)

Council focus on applications for youth-focused occasions or events (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

- 1g. The policy identifies circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises.  
(section 10 of the draft LAP)

The proposed circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

- 1h. The proposed discretionary conditions that could be applied to a licence.  
(section 11 of the draft LAP)

The proposed discretionary conditions (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the general principles behind the proposed discretionary conditions.
2. Care however needs to be given in determining which type of licence attracts which discretionary conditions. For example, whilst a one way door policy is very appropriate to Tavern and other Bar venues whose principal business is the sale and supply of alcohol and frequented by youth under the age of 25, this is not applicable to our establishments, where our patrons are mature and older men who do not participate in front end and side loading. Our alcohol prices are, as a general rule, more expensive than bars and taverns which detracts the youth who are on limited budgets, from frequenting our establishments.
3. Nor would a wind down hour be appropriate for Brothels and Strip Clubs, for obvious reasons.
4. It is very important to see Strip Clubs and Brothels as necessarily associated and therefore grouped together for the purpose of enforcing conditions. Virtually all Strip Clubs are the 'lounge' for brothels, which are nearly always upstairs in the same building. Brothels and

Strip Clubs are therefore , dependent on each other to ensure continued business and maintaining control over the entire establishment.

5. It is wrong to treat Strip Clubs and Brothels which are entertainment Licence Venues, in the same way as Taverns and Bars which are straight on-premise consumption businesses.

2. Overall, do you agree with the direction of the draft Local Alcohol Policy? (please tick one only)
- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the direction of the draft LAP in principle.
2. In order to be effective and maintainable, it needs to be refined in terms of our submissions.

Please be as specific as possible to help us understand your views. It is helpful if you clearly state the page(s) and/or section number(s) of the draft LAP you are commenting on.)

3. What are the best aspects of the draft Local Alcohol Policy?
1. The control over offending of alcohol by the youth of Wellington, particularly to reduce the harm alcohol is inflicting on youth in Wellington between the ages of 15 to 25 (see the figures from Regional Public Health in Wellington);
  2. The restrictions on off-licences.
  3. The power of the DLA in enforcing conditions and controlling alcohol abuse;
  4. Community involvement.
4. What aspects of the draft Local Alcohol Policy do you think need to be changed?
1. The restriction of what we are referring to in these submissions as Adult Entertainment Venues based upon which Precinct they are located;
  2. The restrictions on maximum hours Licensed Adult Entertainment Venues and Brothels may operate considering that their busiest business times are between 3.00am to 7.00am. In short we submit that maintaining 24/7 licensing hours (*at any time on any day*) as the status quo for the existing trouble free low risk such premises is essential in the LAP.
5. Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?

## DRAFT ALCOHOL MANAGEMENT STRATEGY

6. The proposed goals in the draft Alcohol Management Strategy are achievable (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We believe that the Alcohol Management Strategy is in principal achievable. **HOWEVER** it can only be maintained if amended as per our submissions.

7. The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the proposed initiatives, subject to the amendments we seek to meet our objections.

8. The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:



# On Licence

Section 7 and 114, Sale of Liquor Act 1989



007/ON/9197/2013

PURSUANT to the Sale of Liquor Act 1989, **GS ENTERTAINMENT LIMITED** is authorised to sell and supply liquor, on the premises situated at **13 Gore Street, Auckland Central, Auckland** and known as "**MERMAIDS**", for consumption on the premises to any person who is present on the premises and to allow the consumption of liquor on the premises by any such person.

The authority conferred by this licence shall be exercised through a manager or managers appointed by the licensee in accordance with Part 6 of the Act.

## CONDITIONS

This licence is subject to the following conditions:

- (a) The licensee must have available for consumption on the premises, at all times when the premises are open for the sale of liquor, a reasonable range of non-alcoholic refreshments and low alcohol beverages.

(b) **Liquor may be sold only on the following days and during the following hours:  
On such days and during such hours as the premises are being operated as an Adult Entertainment but not other than on the following days and hours:  
AT ANY TIME OF ANY DAY**

- (c) Food must be available for consumption on the premises as follows:  
A range of food choices must be readily available at all times that the premises are open. Menus must be visible and food should be actively promoted. A minimum of three types of food should be available. The range or style of food will be as shown on any menu submitted. Alternatively the range of food should include such items as paninis, pizzas, lasagne, toasted or fresh sandwiches, wedges, pies, filled rolls, and/or salads.
- (d) **The whole of the premises is designated as a RESTRICTED area.**
- (e) The licensee must ensure that signs are prominently displayed within the licensed premises detailing the availability of food and information regarding alternative forms of transport from the premises.
- (f) The licensee must take the following steps in relation to prohibited persons:  
(i) Ensure that no intoxicated persons are allowed to enter or to remain on the premises.  
(ii) Ensure that appropriate signs are prominently displayed detailing the statutory restrictions on the supply of liquor to minors and intoxicated persons, at each entry and adjacent to every point of sale.
- (g) The licensee must ensure that all staff comply with the host responsibility plan submitted with the application for an On Licence detailing the steps to be taken by the licensee to ensure a safe drinking environment.

## THE LICENSED PREMISES

In terms of Regulation 7 of the Sale of Liquor Regulations 1990 the sale, supply or consumption of liquor is authorised in the premises generally. The premises located at **13 Gore Street, Auckland Central, Auckland** are more precisely identified as outlined in a plan date stamped as received by the Auckland District Licensing Agency on **23-MAR-2012 AND 27-MAY-2013.**

## DISPLAY OF LICENCE AND PRINCIPAL ENTRANCE/S

A copy of this licence must be displayed at the principal entrance to the premises. The entrance from **Gore Street** is designated as the principal entrance.

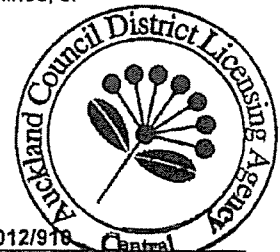
## DURATION

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence shall continue in force -

- (a) Until the close of the period of **1 Year** commencing with the date of its issue; or  
(b) If an application for the renewal of the licence is duly made, until the application is determined; or  
(c) If the licence is renewed, until the close of the period for which it is renewed

**ORIGINALLY DATED at Auckland this 25 July 2012**

.....  
Secretary  
AUCKLAND DISTRICT LICENSING AGENCY



Q/ONL/2012/9197 Central

**NOTE:** This licence replaces licence no **007/ON/9357/2012**. Subject to the requirements of the Act relating to the payment of fees and the provisions of the Act relating to the suspension and cancellation of licences, this licence expires on **25<sup>TH</sup> JULY 2013** unless again renewed.



**Submission on the Draft Alcohol Management Strategy,  
how we Manage Alcohol in Wellington**

To: Jaime Dyhrberg  
Community Networks  
Wellington City Council  
PO Box 2199  
WELLINGTON 6140

From: Infinity Foundation Limited  
405 A King Street North  
Hastings

Date: 01 August 2013

## **1. Introduction**

- 1.1 Infinity Foundation is a not for profit Limited liability company, known as a Class 4 Society under the Gambling Act 2003. Infinity is committed to supporting New Zealand communities using proceeds raised from gaming machines. Venues and their operators are licenced by the Department of Internal Affairs for gaming and licenced under the Sale of Liquor Act 1989 for liquor.
- 1.2 The Society was established in 2006 and in the last financial year its turnover (net of GST) was \$43m returning almost \$18m to a wide range of community organisations including:
  - Community groups;
  - Sports clubs and organisations;
  - Cultural groups;
  - Emergency services;
  - Youth and education; and
  - Health
- 1.3 Infinity Foundation's policy is to distribute a minimum of 80% of funds directly back into the communities from where they were raised.
- 1.4 Infinity Foundation venues directly support many local Wellington communities, including the Wellington City Council through gaming machines raised in their venues.
- 1.5 A valued licensed operator is Mermaids, situated at 75 Courtenay place, in Wellington City. ("Mermaids").

## **2. Infinity's Broad position on the Alcohol Strategy**

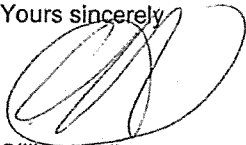
- 2.1 Infinity Foundation generally supports the intent of the Local Alcohol Policy (LAP), which is to reduce and minimize the harm associated with alcohol.
- 2.2 These are principles that we totally support.
- 2.3 It is considered that some of the LAP proposals will result in unintended negative consequences that were not foreseen by the Council – and we cannot support these.
- 2.4 For example, Mermaids provides a valuable service to the Wellington community in that it is a safe, very comfortable and controlled entertainment environment for late night patrons (taxi drivers, cooks, shift workers, hotel workers, bar staff etc) to enjoy a social drink, strip tease dancing and to try their hand on the gambling machines situated at Mermaids.
- 2.5 Mermaids generates a substantial level of income for Infinity Foundation, particularly during the hours of 3.00am to 7.00am, 24/7.
- 2.6 We are deeply concerned that the proposed Wellington Local Alcohol Policy could very well reduce the effective hours and service that Mermaids and other strip clubs and brothels are able to operate within the Wellington CBD.

- 2.7 Our research and feedback from publicans over the years has disclosed that patrons do not tend to frequent venues with gaming machines that do not also sell and supply alcohol, as much as those that do. For example, in a general sense a standalone TAB that does not sell alcohol is of lower gaming turnover than a pub with a TAB that has a liquor license.
- 2.8 With this in mind, we are very concerned that if the hours that Mermaid's are permitted to sell and supply alcohol is significantly reduced between the hours of 1.00am to 7.00am, which appears to be the case, then our income stream that we use for local charitable purposes will also be drastically reduced.
- 2.9 There is insufficient time before 2nd August 2013 (due date), to obtain statistics from the Department of Internal Affairs, which we are certain will confirm to Wellington Council, how much money is earned from gaming machines located at licensed venues between 1:00am to 7:00am. However from discussions with publicans we can confirm that gaming activity during this time is substantial and a significant consideration to be taken into account by Wellington City Council when implementing this proposed LAP.

### 3. Conclusion

- 3.1 Only the Wellington City Council can decide if their decision is an emotive vote or a vote supported by accurate facts and the known real needs of the New Zealand community. It is vital that the council carefully balance the needs and requirements of the entire community when determining policies on what alcohol sales should be permitted to occur along with where, and how.
- 3.2 Community groups rely on gaming machine funding for a multitude of support, particularly salaries and essential projects and activities to enable them to meet growing community needs and provide these essential services. Funding provided by Government controlled boards has stringent criteria to meet and is difficult to qualify for, many community groups find the requirements difficult to meet either due to unrealistic expectations or limited resource. This will be a case of you wont know how good it was until it's gone!
- 3.3 We strongly urge the council to consider the impact of the reduction in funding available for community purposes if the proposed LAP is implemented in its current state.
- 3.4 We thank you for your time in considering this submission.

Yours sincerely



Gillian Wells  
General Manager  
Infinity Foundation Ltd  
021 536 983

**SUBMISSION OF THE NEW ZEALAND PROSTITUTES COLLECTIVE TO THE  
WELLINGTON CITY COUNCIL  
ON THE  
LOCAL ALCOHOL POLICY**

1. We represent the New Zealand Prostitutes Collective (NZPC), which is concerned about the safety, health and rights of sex workers. We provide services to sex workers throughout New Zealand. We wish to be heard in relation to the effects the proposed Wellington Local Alcohol Policy ("LAP") will have on sex workers in Wellington.
2. We are seriously concerned about the proposed changes as they may have serious effects upon the employment and working conditions of significant numbers of sex industry workers in the Wellington District.
3. Our submission is based upon the following criteria:-
  - (a) To observe the purpose behind the Prostitution Reform Act 2003 ("The Act"), which is to:-
    - (i) safeguard the human rights of sex workers and protects them from exploitation; and
    - (ii) promote the welfare and occupational health and safety of sex workers.; and
    - (iii) ensure that sex workers are provided with controlled environments conducive to public health
  - (b) Large numbers of sex industry workers are dependent on work in managed commercial sex venues, such as brothels and strip clubs with liquor licences. This is particularly true for dancers in strip clubs.
  - (c) While some dancers will seek self employment by dancing for private parties, in the main, they are more protected in managed environments, such as those clubs that currently exist within the Wellington CBD.
  - (d) For a large number of sex workers their busiest time is generally between the hours of 1.00am to 7.00am.
4. Strip clubs and brothels have had a long history of providing commercial sex services within the Wellington CBD, and have usually provided alcohol while doing so, within the context of liquor licensing.

5. While we have a concern about alcohol and its potential impact on safer sex cultures within the sex industry, we recognise that it is better that alcohol be sold in a licensed, and therefore more controlled, environment, and not be driven underground into a context where “complimentary” drinks, which may be unlimited, are served in unlicensed, and potentially uncontrolled, settings.
6. NZPC’s concern is if the sale and supply of alcohol by brothels and strip clubs is not permitted during the hours of 1.00am to 7.00am 7 days a week, then this proposed plan by the Council may result in these significant brothel and strip club businesses closing down, and thereby reducing the work options available for many of these sex industry workers.
7. We realise there is a fine line between providing alcohol, commercial sexual services, and exotic dancing. NZPC notes that clients are unlikely to visit these inner city brothels and strip clubs after 1am if access to alcohol is restricted. There are some unique features that we urge the Council to take into account as it considers this proposed LAP. For many, working in these clubs is their primary means of income and employment; and it is a late night activity, which is often complimented by a social environment. If the LAP is passed, it would have a considerable impact on the sex industry, and probably result in dancers and a significant number of sex workers losing their livelihood, as it may be difficult for people to find work in brothels or strip clubs., or finding any other work.
8. We share the concerns of those from the sex industry who have submitted that this LAP will considerably undermine the working conditions and options of sex workers.
9. We wish to give oral submissions on 8<sup>th</sup> August 2013 as a follow up and in support of this written submission.

Catherine Healy  
National Co-ordinator  
New Zealand Prostitutes Collective  
PO Box 11-412  
Manners St  
Wellington 6142  
Ph: 04 382 8791

## Extracts from the Prostitution Reform Act 2003.

### 3 Purpose

The purpose of this Act is to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use) and to create a framework that—

- (a) safeguards the human rights of sex workers and protects them from exploitation:
- (b) promotes the welfare and occupational health and safety of sex workers:
- (c) is conducive to public health:
- (d) prohibits the use in prostitution of persons under 18 years of age:
- (e) implements certain other related reforms.

### 5 Definition of operator

(1) In this Act, **operator**, in relation to a business of prostitution, means a person who, whether alone or with others, owns, operates, controls, or manages the business; and includes (without limitation) any person who—

- (a) is the director of a company that is an operator; or
- (b) determines—
  - (i) when or where an individual sex worker will work; or
  - (ii) the conditions in which sex workers in the business work; or
  - (iii) the amount of money, or proportion of an amount of money, that a sex worker receives as payment for prostitution; or
- (c) is a person who employs, supervises, or directs any person who does any of the things referred to in paragraph (b).

(2) Despite anything in subsection (1), a sex worker who works at a small owner-operated brothel is not an operator of that business of prostitution, and, for the purposes of this Act, a small owner-operated brothel does not have an operator.

### 9 Sex workers and clients must adopt safer sex practices

(1) A person must not provide or receive commercial sexual services unless he or she has taken all reasonable steps to ensure a prophylactic sheath or other appropriate barrier is used if those services involve vaginal, anal, or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections.

(2) A person must not, for the purpose of providing or receiving commercial sexual services, state or imply that a medical examination of that person means that he or she is not infected, or likely to be infected, with a sexually transmissible infection.

(3) A person who provides or receives commercial sexual services must take all other reasonable steps to minimise the risk of acquiring or transmitting sexually transmissible infections.

(4) Every person who contravenes subsection (1), subsection (2), or subsection (3) commits an offence and is liable on conviction to a fine not exceeding \$2,000

### **10 Application of Health and Safety in Employment Act 1992**

(1) A sex worker is at work for the purposes of the Health and Safety in Employment Act 1992 while providing commercial sexual services.

(2) However, nothing in this Act (including subsection (1)) limits that Act or any regulations or approved codes of practice under that Act.

### **36 Disqualification from holding certificate**

(1) A person is disqualified from holding a certificate if he or she has been convicted at any time of any of the disqualifying offences set out in subsection (2), or has been convicted of an attempt to commit any such offence, of conspiring to commit any such offence, or of being an accessory after the fact to any such offence.

(2) The disqualifying offences are as follows:

(a) an offence under this Act (other than an offence under section 39(3), section 40(2), and section 41(3)):

(b) an offence under any of the following sections or Parts of the Crimes Act 1961 that is punishable by 2 or more years' imprisonment:

(i) section 98A (participation in an organised criminal group):

(ii) sections 127 to 144C (includes sexual crimes):

(iii) Part 8 (includes murder, manslaughter, assault, and abduction):

(iv) sections 234 to 244 (robbery, extortion, and burglary):

(v) section 257A (money laundering):

(c) an offence under the Arms Act 1983 that is punishable by imprisonment:

(d) in relation to the Misuse of Drugs Act 1975,—

(i) an offence under section 6 (other than possession of a Class C controlled drug):

(ii) an offence under section 9, section 12A, section 12AB, or section 12B:



(iii) an offence under any other section, but only if it relates to a Class A or a Class B controlled drug.

Section 36(2)(d)(ii): amended, on 22 June 2005, by section 23 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

SUBMISSION No. 291

See attached submission

**Giselle Baretta**

**From:** Bradley Watson [Bradley.Watson@cgml.co.nz]  
**Sent:** Friday, 2 August 2013 11:52 a.m.  
**To:** BUS: Alcohol Strategy  
**Subject:** IL BORDELLO WRITTEN SUBMISSONS IN RELATION TO WELLINGTON LAP  
**Importance:** High  
**Attachments:** Sumissions\_Wgtn\_LAP\_ILBordello\_1.8.13.pdf  
Friday, 2 August 2013

FOR THE ATTENTION OF: JAMIE DYHRBERG.

ATTACHED: Submissions on behalf of IL BORDELLO in Wellington.

PLEASE NOTE we have instructed Mr Alastair Sherriff of Buddle Findlay to present oral submissions on our behalf on 8 August 2013. He will also be giving oral submissions on behalf of Il Bordello, Splash Club and Cubic Bar (in Willis Street Wellington); in total 4 sets of submissions in support of 4 written submissions.

We would appreciate if you could liaise directly with Alastair Sherriff to book in a time for him to present his oral submissions between the hours of 5.00pm to 8.00pm on 8 August 2013.

Please feel free to contact the writer should you require any further information or assistance.

Yours faithfully

**Bradley J Watson LLB**

**Legal Consultant**

**Mble: +6421 858 726**

**Office: 09 369 1719**

[www.cgml.co.nz](http://www.cgml.co.nz)

**Auckland Office:** PO 106-274, Level 5, 203 Queen Street, Auckland 1143

**Wellington Office:** PO Box 19123, level 1, 147 Tory Street, Wellington 6011

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Friday 8 August 2013

**CONFIRMATION OF  
WRITTEN  
SUBMISSIONS  
EMAILED TO YOU ON  
FRIDAY 8 AUGUST  
2013 AT 11.53 AM ON  
BEHALF OF IL  
BORDELLO**

To: Jaime Dyhrberg  
 Community Networks  
 Wellington City Council  
 PO Box 2199  
 WELLINGTON 6140

EMAIL: [alcoholstrategy@wcc.govt.nz](mailto:alcoholstrategy@wcc.govt.nz)

## HOW WE MANAGE ALCOHOL IN WELLINGTON SUBMISSION FORM




- I wish to discuss the main points in my written submission at a hearing, to be held in early August 2013 (note oral submissions are given five minutes for individuals and 10 minutes for organisations).

I am completing this submission:

- On my own behalf  On behalf of a group or organisation

If you are representing a group or organisation, how many people do you represent? **40**

Your name **Michael Chow**  
 Organisation name (if applicable) **B&M Entertainment Ltd Holdings IL BERDELO**  
 Organisation role (if applicable) **Current liquor Licence Holder**  
 Contact address **9-Chow Group Limited, P.O. Box 1912.3**  
**courtesy Place, Wellington** Post code **614.9**  
 Phone number (day) **4 4 973 9735** Phone number (evening) **029 230 8090**  
 Email (if applicable) **michael.chow@ccml.co.nz**  
 Signature  Date **1 August 2013**

## DRAFT LOCAL ALCOHOL POLICY

1. Please indicate your level of satisfaction with the following provisions in the draft LAP.  
\*If you disagree, please tell us what you would like the provision to be changed to.

- 1a. Under the proposed zone framework, late-night trading activity of bars and entertainment venues will be moved into a specific Entertainment Precinct to better manage the harm associated with trading at this time.

The proposed Entertainment Precinct boundaries are Courtenay Place (Kent Terrace) to Cuba Street (Abel Smith Street).

(section 9 of the draft LAP)

Creating an Entertainment Precinct: (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. The proposed boundaries fail to recognise how essential it is that long standing, trouble free, 24/7 licensed establishments such as Il Bordello situated at 146 Vivian Street, Wellington, be included as part of the Entertainment Precinct, in order to:-
  - (a) Observe the object behind the LAP to provide a vibrant and dynamic central city for Wellington, in line with international models; and
  - (b) Ensure that the LAP provides "Activity Mix" as detailed on page 18 of the proposed LAP.
2. Failure to recognise establishments such as Il Bordello as essential venues in order to achieve the objects of the LAP, results in unfairness and entirely in conflict with Point 10 of the LAP.
3. Il Bordello is situated immediately adjacent to the current proposed Entertainment Precinct Boundary bordering Cuba Street. All that is required by the Council and sort by this submission, is an adjustment to the area of the Entertainment Precinct to include 146 Vivian Street Wellington.
4. Failure to recognise the need to include brothels and strip bars which currently fall just outside the "border" of the Entertainment Precinct, as part of this precinct, would effectively prevent these venues from operating after 3.00am. This would mean that Wellington could return back to pre 2003 and the Prostitution Reform Act, as the current controlled environment that Il Bordello and other brothels and strip clubs provide, keeps prostitution off the streets. If Il Bordello is unable to operate after 3.00am then prostitution would in all probability return to the streets as it was before 2003, because of the Council's short-sightedness.
5. It is essential that Wellington recognise the community service provided by Brothels and Strip Clubs and they should be appraised for this; not condemned!
6. We have been in talks with New Zealand Prostitutes Collective. Whom we work very closely with. They totally support our submissions and have lodged their own submissions, (copy attached), with a request to be able to give oral submissions as well.

- 1b. The proposed risk-based management framework reviews the suitability of all elements of the activity in relation to its impacts on the community, and provides a risk classification.

This classification will influence the licence fees charged by the Council and the types of conditions that may be applied to the licence. The lower the risk, the lower the fees charged by the Council and the fewer restrictions applied to the licence.

(section 8 of the draft LAP)

Risk-based management framework (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1c. The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafés).

Entertainment Precinct

7am–3am

7am–5am maximum for best-practice premises

Central Area

7am–2am

7am–3am maximum for best-practice premises

Suburban Centre

7am–midnight maximum

(section 9 of the draft LAP)

Entertainment Precinct maximum trading-hour restrictions for on-licensed venues

(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Central Area maximum trading-hour restrictions for on-licensed venues (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Suburban Centre maximum trading-hour restrictions for on-licensed venues (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. The maximum trading hour restrictions currently proposed under the LAP are too generalised, particular in regard to the categorisation of "Entertainment Venues". The LAP relies on the very generic characteristic of "premises used or intended to be used in the course of business principally by providing any performance or activity (not alcohol related), designed to engage and audience" to group venues as "Entertainment Venues". This includes at one end of the scale Cinemas and theatres, that by the very nature of the services provided, have no interest in operating late night licences, to brothels and strip clubs whose active trading period is between 3.00am to 7.00am, and which currently enjoy 24/7 licences which are different in their terms from on-licences for Taverns and Bars. (copy of current licence attached).

2. Wellington Council recognises Hospitality NZ's statistics as important, in that \$33 million in eftpos transactions occur during the time frame between 4.00am to 7.00am in Wellington alone; a clear indication of how very important it is that Brothels and strip clubs be entitled to continue to have the same trading hours as currently they are recognised as requiring, to maintain a healthy financial environment for Wellington City.
3. A solution would be to establish a new category called "Adult Entertainment". This would be a very selective but essential activity which would include brothels and strip clubs. This would:-
  - a. Recognise to what extent "Adult Entertainment" venues contribute to the liquidity of Wellington city; and
  - b. acknowledge the very real social service brothels and strip clubs provide to the community by providing controlled and healthy venues that recognise and rely upon the Prostitution Reform Act 2003; and
  - c. Appreciate that if "Adult Entertainment" Venues are not permitted to operate between the hours of 3.00am to 7.00am despite being in the Wellington CBD, there is a very real threat of prostitution returning to the streets. This carries with it the very real threat of uncontrolled alcohol abuse which could well lead to endangering the general public and placing sex industry workers in harm's way!. Nobody wants this.
4. The sex industry is without question the oldest profession known to man-kind; it is never going to go away and therefore must be recognised and controlled. The LAP can ensure that control be maintained, and monitored by the DLA, by creating this new category and allowing holders of Adult Entertainment licences to continue operating 24/7 licences.
5. Wellington City Council need be reminded why the Prostitution Reform Act was enacted in 2003. From discussions with others, we learn that Helen Ritchie, who was a Wellington Councillor at that time, was a promoter of the legislation back in 2003, because she recognised the benefit it provided to the general public. Along these lines, perhaps Inspector Terrance van Dillen who was head of the Wellington vice squad pre 2003, might be asked to tell the Council how terrible the streets were before the Prostitution Reform Act became law. It is a very real concern that must be recognised that by effectively restricting the hours that brothels and strip clubs are permitted to operate, as a direct result of their inability to sell and supply alcohol between 3.00am to 7.00am, pre 2003 bad and unsafe days will return as the sex industry will have no alternative but to resort to street walking!. This has a very real danger of resulting in the abuse of alcohol and resulting harm and damage increasing on the streets of Wellington; one of the biggest dangers the LAP wants to avoid
6. Neither should holders of Adult Entertainment Licences be restricted from trading on Good Friday, Easter Sunday, the morning of Anzac day and Christmas day. They currently provide a very necessary service to the community by being entitled to operate on these days, without an increase in violence and alcohol abuse. The sale and supply of alcohol remains a secondary service; not a primary service.
7. An alternative could be through Wellington Council recognising Adult Entertainment Venues as short term hotels. This would enable them to maintain liquor licences 24/7 on any day of the week notwithstanding which precinct they may currently fall under the proposed LAP.
8. It is acknowledged that the District Licensing Committee guide to implementing the LAP states that the DLA will not take into account any prejudicial effect that the issue of a liquor licence may have on the business conducted pursuant to any other licence.

However, in view of the object of the LAP, to promote a vibrant late night environment by providing an Activity Mix (pg 18), we believe the DLA must recognise that a great number of strip clubs, such as Mermaids in Courtenay Place provides entertainment as it's primary business activity. This entertainment extends beyond dancing to also providing patrons with the option to enjoy gaming machines. Income generated from these gaming machines, pursuant to the Gambling Act, is applied towards approved public benefits. The bulk of this 'public income' is generated between the hours of 3.00am to 7.00am. The sale and supply of alcohol is a secondary service to these two entertainment activities to ensure a healthy and comfortable environment for patrons, in a controlled environment. Whilst neither of these primary business activities relies upon the sale and supply of alcohol as the means by which the business activities can carry on, common sense must prevail and the DLA must accept that reducing the hours that strip clubs can sell and supply alcohol, will have a major affect on income generated from gambling machines. It is not the prejudicial effect on the gambling business that is relevant; rather the prejudicial effect on public funds that are generated from the gambling machines that must be taken into consideration.

9. The Infinity Foundation Limited, who run the Infinity Gambling Trust, which is empowered to distribute our gambling machine proceeds to Charitable Trusts and the likes around New Zealand, also strongly support our submissions. They have provided us with their own submissions with a request that we lodge these on their behalf, along with ours. The Infinity Foundation submissions are attached.

- 1d. The proposed maximum trading-hour restrictions of 7am–9pm for off-licensed venues (supermarkets, grocery stores, bottle stores).

(section 9 of the draft LAP)

Maximum trading-hour restrictions of 7am–9pm for off-licensed venues  
(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1e. Supermarkets, grocery and bottle stores (all off-licence venues) should be treated the same despite the different range of products they sell.

- Supermarket and grocery stores can sell only beer and wine
- Bottle stores can sell beer, wine, spirits and RTDs (ready-to-drink mixes)

Treating all off-licence venues the same (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:



- 1f. The Council will look closely at applications for the sale and supply of alcohol at youth-focused occasions or events, or those likely to attract people under the legal purchase age of 18 years.

(section 9 of the draft LAP)

Council focus on applications for youth-focused occasions or events (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

- 1g. The policy identifies circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises.

(section 10 of the draft LAP)

The proposed circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

- 1h. The proposed discretionary conditions that could be applied to a licence.

(section 11 of the draft LAP)

The proposed discretionary conditions (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the general principles behind the proposed discretionary conditions.
2. Care however needs to be given in determining which type of licence attracts which discretionary conditions. For example, whilst a one way door policy is very appropriate to Tavern and other Bar venues whose principal business is the sale and supply of alcohol and frequented by youth under the age of 25, this is not applicable to our establishments, where our patrons are mature and older men who do not participate in front end and side loading. Our alcohol prices are, as a general rule, more expensive than bars and taverns which detracts the youth who are on limited budgets, from frequenting our establishments.
3. Nor would a wind down hour be appropriate for Brothels and Strip Clubs, for obvious reasons.
4. It is very important to see Strip Clubs and Brothels as necessarily associated and therefore grouped together for the purpose of enforcing conditions. Virtually all Strip Clubs are the 'lounge' for brothels, which are nearly always upstairs in the same building. Brothels and

Strip Clubs are therefore , dependent on each other to ensure continued business and maintaining control over the entire establishment.

5. It is wrong to treat Strip Clubs and Brothels which are entertainment Licence Venues, in the same way as Taverns and Bars which are straight on-premise consumption businesses.

2. Overall, do you agree with the direction of the draft Local Alcohol Policy? (please tick one only)
- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the direction of the draft LAP in principle.
2. In order to be effective and maintainable, it needs to be refined in terms of our submissions.

Please be as specific as possible to help us understand your views. It is helpful if you clearly state the page(s) and/or section number(s) of the draft LAP you are commenting on.)

3. What are the best aspects of the draft Local Alcohol Policy?
1. The control over offending of alcohol by the youth of Wellington, particularly to reduce the harm alcohol is inflicting on youth in Wellington between the ages of 15 to 25 (see the figures from Regional Public Health in Wellington);
  2. The restrictions on off-licences.
  3. The power of the DLA in enforcing conditions and controlling alcohol abuse;
  4. Community involvement.
4. What aspects of the draft Local Alcohol Policy do you think need to be changed?
1. The restriction of what we are referring to in these submissions as Adult Entertainment Venues based upon which Precinct they are located;
  2. The restrictions on maximum hours Licensed Adult Entertainment Venues and Brothels may operate considering that their busiest business times are between 3.00am to 7.00am. In short we submit that maintaining 24/7 licensing hours (*at any time on any day*) as the status quo for the existing trouble free low risk such premises is essential in the LAP.
5. Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?

## DRAFT ALCOHOL MANAGEMENT STRATEGY

6. The proposed goals in the draft Alcohol Management Strategy are achievable (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We believe that the Alcohol Management Strategy is in principal achievable. HOWEVER it can only be maintained if amended as per our submissions.

7. The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the proposed initiatives, subject to the amendments we seek to meet our objections.

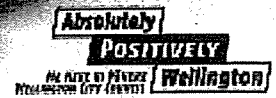
8. The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

# ON LICENCE

Sections 7 and 114, sale of Liquor Act 1989



049/ON/204/2012

PURSUANT to the Sale of Liquor Act 1989, **B & M ENTERTAINMENT LIMITED** is authorised to sell and supply liquor on the premises situated at 146 Vivian Street, Wellington, and known as "Il Bordello" for consumption on the premises to any person who is present on the premises and to allow the consumption of liquor on the premises by any such person.

The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with Part 6 of the Act.

## CONDITIONS

This licence is subject to the following conditions:

- (a) The licensee must have available for consumption on the premises, at all times when the premises are open for the sale of liquor, a reasonable range of non-alcoholic refreshments and low-alcohol beverages.
- (b) Liquor may be sold only on the following days and during the following hours:  
**At any time on any day when the premises are being operated as a Brothel.**
- (c) At all times when the premises are authorised to be open for the sale of liquor, a range of food choices must be readily available. Menus must be visible and food should be actively promoted. A minimum of three types of food should be available. The range of food should include such items as paninis, pizzas, lasagne, toasted or fresh sandwiches, wedges, pies, filled rolls, and/or salads.
- (d) **The whole of the premises is designated as a restricted area.**
- (e) The licensee must ensure that signs are prominently displayed within the licensed premises detailing information regarding alternative forms of transport from the premises.
- (f) The licensee must implement and maintain the steps proposed in the application for the licence aimed at promoting the responsible consumption of liquor
- (g) The licensee must ensure that the provisions of the Act relating to the sale and supply of liquor to prohibited persons are observed and must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of liquor to minors and the complete prohibition on sales to intoxicated persons.

## THE LICENSED PREMISES

In terms of Regulation 7 of the Sale of Liquor Regulations 1990 the sale, supply or consumption of liquor is authorised in the premises generally. The premises, located at 146 Vivian Street, Wellington, are more precisely identified as outlined in a plan date stamped as received by the Wellington District Licensing Agency on 22 July 2005.

## DISPLAY OF LICENCE AND PRINCIPAL ENTRANCE

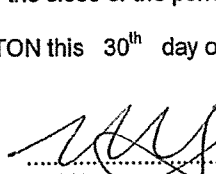
A copy of this licence must be displayed at the principal entrance to the premises. The entrance from Vivian Street is designated as the principal entrance.

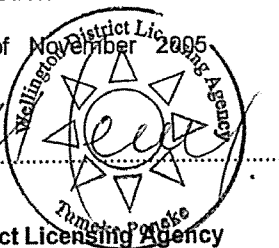
## DURATION

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence continues in force –

- (a) If an application for the renewal of the licence is duly made, until the application is determined; or
- (b) If the licence is renewed, until the close of the period for which it is renewed.

ORIGINALLY DATED at WELLINGTON this 30<sup>th</sup> day of November 2005

  
M J Kemp  
for Secretary  
Wellington District Licensing Agency



## RENEWAL NOTICE

This licence replaces Licence No. 049/ON/165/2009  
This licence shall expire on the 30th day of November 2015, unless again renewed.



**Submission on the Draft Alcohol Management Strategy,  
how we Manage Alcohol in Wellington**

To: Jaime Dyhrberg  
Community Networks  
Wellington City Council  
PO Box 2199  
WELLINGTON 6140

From: Infinity Foundation Limited  
405 A King Street North  
Hastings

Date: 01 August 2013

## **1. Introduction**

- 1.1 Infinity Foundation is a not for profit Limited liability company, known as a Class 4 Society under the Gambling Act 2003. Infinity is committed to supporting New Zealand communities using proceeds raised from gaming machines. Venues and their operators are licenced by the Department of Internal Affairs for gaming and licenced under the Sale of Liquor Act 1989 for liquor.
- 1.2 The Society was established in 2006 and in the last financial year its turnover (net of GST) was \$43m returning almost \$18m to a wide range of community organisations including:
  - Community groups;
  - Sports clubs and organisations;
  - Cultural groups;
  - Emergency services;
  - Youth and education; and
  - Health
- 1.3 Infinity Foundation's policy is to distribute a minimum of 80% of funds directly back into the communities from where they were raised.
- 1.4 Infinity Foundation venues directly support many local Wellington communities, including the Wellington City Council through gaming machines raised in their venues.
- 1.5 A valued licensed operator is Mermaids, situated at 75 Courtenay place, in Wellington City. ("Mermaids").

## **2. Infinity's Broad position on the Alcohol Strategy**

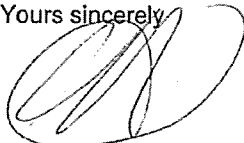
- 2.1 Infinity Foundation generally supports the intent of the Local Alcohol Policy (LAP), which is to reduce and minimize the harm associated with alcohol.
- 2.2 These are principles that we totally support.
- 2.3 It is considered that some of the LAP proposals will result in unintended negative consequences that were not foreseen by the Council – and we cannot support these.
- 2.4 For example, Mermaids provides a valuable service to the Wellington community in that it is a safe, very comfortable and controlled entertainment environment for late night patrons (taxi drivers, cooks, shift workers, hotel workers, bar staff etc) to enjoy a social drink, strip tease dancing and to try their hand on the gambling machines situated at Mermaids.
- 2.5 Mermaids generates a substantial level of income for Infinity Foundation, particularly during the hours of 3.00am to 7.00am, 24/7.
- 2.6 We are deeply concerned that the proposed Wellington Local Alcohol Policy could very well reduce the effective hours and service that Mermaids and other strip clubs and brothels are able to operate within the Wellington CBD.

- 2.7 Our research and feedback from publicans over the years has disclosed that patrons do not tend to frequent venues with gaming machines that do not also sell and supply alcohol, as much as those that do. For example, in a general sense a standalone TAB that does not sell alcohol is of lower gaming turnover than a pub with a TAB that has a liquor license.
- 2.8 With this in mind, we are very concerned that if the hours that Mermaid's are permitted to sell and supply alcohol is significantly reduced between the hours of 1.00am to 7.00am, which appears to be the case, then our income stream that we use for local charitable purposes will also be drastically reduced.
- 2.9 There is insufficient time before 2nd August 2013 (due date), to obtain statistics from the Department of Internal Affairs, which we are certain will confirm to Wellington Council, how much money is earned from gaming machines located at licensed venues between 1:00am to 7:00am. However from discussions with publicans we can confirm that gaming activity during this time is substantial and a significant consideration to be taken into account by Wellington City Council when implementing this proposed LAP.

### **3. Conclusion**

- 3.1 Only the Wellington City Council can decide if their decision is an emotive vote or a vote supported by accurate facts and the known real needs of the New Zealand community. It is vital that the council carefully balance the needs and requirements of the entire community when determining policies on what alcohol sales should be permitted to occur along with where, and how.
- 3.2 Community groups rely on gaming machine funding for a multitude of support, particularly salaries and essential projects and activities to enable them to meet growing community needs and provide these essential services. Funding provided by Government controlled boards has stringent criteria to meet and is difficult to qualify for, many community groups find the requirements difficult to meet either due to unrealistic expectations or limited resource. This will be a case of you wont know how good it was until it's gone!
- 3.3 We strongly urge the council to consider the impact of the reduction in funding available for community purposes if the proposed LAP is implemented in its current state.
- 3.4 We thank you for your time in considering this submission.

Yours sincerely



Gillian Wells  
General Manager  
Infinity Foundation Ltd  
021 536 983

**SUBMISSION OF THE NEW ZEALAND PROSTITUTES COLLECTIVE TO THE  
WELLINGTON CITY COUNCIL  
ON THE  
LOCAL ALCOHOL POLICY**

1. We represent the New Zealand Prostitutes Collective (NZPC), which is concerned about the safety, health and rights of sex workers. We provide services to sex workers throughout New Zealand. We wish to be heard in relation to the effects the proposed Wellington Local Alcohol Policy ("LAP") will have on sex workers in Wellington.
2. We are seriously concerned about the proposed changes as they may have serious effects upon the employment and working conditions of significant numbers of sex industry workers in the Wellington District.
3. Our submission is based upon the following criteria:-
  - (a) To observe the purpose behind the Prostitution Reform Act 2003 ("The Act"), which is to:-
    - (i) safeguard the human rights of sex workers and protects them from exploitation; and
    - (ii) promote the welfare and occupational health and safety of sex workers.; and
    - (iii) ensure that sex workers are provided with controlled environments conducive to public health
  - (b) Large numbers of sex industry workers are dependent on work in managed commercial sex venues, such as brothels and strip clubs with liquor licences. This is particularly true for dancers in strip clubs.
  - (c) While some dancers will seek self employment by dancing for private parties, in the main, they are more protected in managed environments, such as those clubs that currently exist within the Wellington CBD.
  - (d) For a large number of sex workers their busiest time is generally between the hours of 1.00am to 7.00am.
4. Strip clubs and brothels have had a long history of providing commercial sex services within the Wellington CBD, and have usually provided alcohol while doing so, within the context of liquor licensing.



5. While we have a concern about alcohol and its potential impact on safer sex cultures within the sex industry, we recognise that it is better that alcohol be sold in a licensed, and therefore more controlled, environment, and not be driven underground into a context where “complimentary” drinks, which may be unlimited, are served in unlicensed, and potentially uncontrolled, settings.
6. NZPC’s concern is if the sale and supply of alcohol by brothels and strip clubs is not permitted during the hours of 1.00am to 7.00am 7 days a week, then this proposed plan by the Council may result in these significant brothel and strip club businesses closing down, and thereby reducing the work options available for many of these sex industry workers.
7. We realise there is a fine line between providing alcohol, commercial sexual services, and exotic dancing. NZPC notes that clients are unlikely to visit these inner city brothels and strip clubs after 1am if access to alcohol is restricted. There are some unique features that we urge the Council to take into account as it considers this proposed LAP. For many, working in these clubs is their primary means of income and employment; and it is a late night activity, which is often complimented by a social environment. If the LAP is passed, it would have a considerable impact on the sex industry, and probably result in dancers and a significant number of sex workers losing their livelihood, as it may be difficult for people to find work in brothels or strip clubs., or finding any other work.
8. We share the concerns of those from the sex industry who have submitted that this LAP will considerably undermine the working conditions and options of sex workers.
9. We wish to give oral submissions on 8<sup>th</sup> August 2013 as a follow up and in support of this written submission.

Catherine Healy  
National Co-ordinator  
New Zealand Prostitutes Collective  
PO Box 11-412  
Manners St  
Wellington 6142  
Ph: 04 382 8791

## Extracts from the Prostitution Reform Act 2003.

### 3 Purpose

The purpose of this Act is to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use) and to create a framework that—

- (a) safeguards the human rights of sex workers and protects them from exploitation:
- (b) promotes the welfare and occupational health and safety of sex workers:
- (c) is conducive to public health:
- (d) prohibits the use in prostitution of persons under 18 years of age:
- (e) implements certain other related reforms.

### 5 Definition of operator

(1) In this Act, **operator**, in relation to a business of prostitution, means a person who, whether alone or with others, owns, operates, controls, or manages the business; and includes (without limitation) any person who—

- (a) is the director of a company that is an operator; or
- (b) determines—
  - (i) when or where an individual sex worker will work; or
  - (ii) the conditions in which sex workers in the business work; or
  - (iii) the amount of money, or proportion of an amount of money, that a sex worker receives as payment for prostitution; or
- (c) is a person who employs, supervises, or directs any person who does any of the things referred to in paragraph (b).

(2) Despite anything in subsection (1), a sex worker who works at a small owner-operated brothel is not an operator of that business of prostitution, and, for the purposes of this Act, a small owner-operated brothel does not have an operator.

### 9 Sex workers and clients must adopt safer sex practices

(1) A person must not provide or receive commercial sexual services unless he or she has taken all reasonable steps to ensure a prophylactic sheath or other appropriate barrier is used if those services involve vaginal, anal, or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections.

(2) A person must not, for the purpose of providing or receiving commercial sexual services, state or imply that a medical examination of that person means that he or she is not infected, or likely to be infected, with a sexually transmissible infection.

(3) A person who provides or receives commercial sexual services must take all other reasonable steps to minimise the risk of acquiring or transmitting sexually transmissible infections.

(4) Every person who contravenes subsection (1), subsection (2), or subsection (3) commits an offence and is liable on conviction to a fine not exceeding \$2,000

### **10 Application of Health and Safety in Employment Act 1992**

(1) A sex worker is at work for the purposes of the Health and Safety in Employment Act 1992 while providing commercial sexual services.

(2) However, nothing in this Act (including subsection (1)) limits that Act or any regulations or approved codes of practice under that Act.

### **36 Disqualification from holding certificate**

(1) A person is disqualified from holding a certificate if he or she has been convicted at any time of any of the disqualifying offences set out in subsection (2), or has been convicted of an attempt to commit any such offence, of conspiring to commit any such offence, or of being an accessory after the fact to any such offence.

(2) The disqualifying offences are as follows:

(a) an offence under this Act (other than an offence under section 39(3), section 40(2), and section 41(3)):

(b) an offence under any of the following sections or Parts of the Crimes Act 1961 that is punishable by 2 or more years' imprisonment:

(i) section 98A (participation in an organised criminal group):

(ii) sections 127 to 144C (includes sexual crimes):

(iii) Part 8 (includes murder, manslaughter, assault, and abduction):

(iv) sections 234 to 244 (robbery, extortion, and burglary):

(v) section 257A (money laundering):

(c) an offence under the Arms Act 1983 that is punishable by imprisonment:

(d) in relation to the Misuse of Drugs Act 1975,—

(i) an offence under section 6 (other than possession of a Class C controlled drug):

(ii) an offence under section 9, section 12A, section 12AB, or section 12B:

(iii) an offence under any other section, but only if it relates to a Class A or a Class B controlled drug.

Section 36(2)(d)(ii): amended, on 22 June 2005, by section 23 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

MISSION No. 292

See attached Submiss

**Giselle Baretta**

**From:** Bradley Watson [Bradley.Watson@cgml.co.nz]  
**Sent:** Friday, 2 August 2013 12:05 p.m.  
**To:** BUS: Alcohol Strategy  
**Subject:** WRITTEN SUBMISSIONS ON BEHALF OF THE CUBIC BAR (WILLIS STREET) IN RELATION TO WELLINGTON CITY COUNCIL LAP  
**Importance:** High  
**Attachments:** Submissions\_Wgtn\_LAP\_CubicBar\_1.8.13.pdf  
 Friday, 2 August 2013

FOR THE ATTENTION OF: JAMIE DYHRBERG.

ATTACHED: Submissions on behalf of CUBIC BAR to be situated in Willis Street in Wellington.

PLEASE NOTE we have instructed Mr Alastair Sherriff of Buddle Findlay to present oral submissions on our behalf on 8 August 2013. He will also be giving oral submissions on behalf of Il Bordello, Splash Club and Cubic Bar (in Willis Street Wellington); in total 4 sets of submissions in support of 4 written submissions.

We would appreciate if you could liaise directly with Alastair Sherriff to book in a time for him to present his oral submissions between the hours of 5.00pm to 8.00pm on 8 August 2013.

Please feel free to contact the writer should you require any further information or assistance.

**Bradley J Watson LLB**  
**Legal Consultant**  
**Mble: +6421 858 726**  
**Office: 09 369 1719**

[www.cgml.co.nz](http://www.cgml.co.nz)

**Auckland Office:** PO 106-274, Level 5, 203 Queen Street, Auckland 1143  
**Wellington Office:** PO Box 19123, level 1, 147 Tory Street, Wellington 6011

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Friday 8 August 2013

**CONFIRMATION OF  
WRITTEN  
SUBMISSIONS  
EMAILED TO YOU ON  
FRIDAY 8 AUGUST  
2013 AT 12.05 AM ON  
BEHALF OF CUBIC BAR  
(WILLIS STREET)**

To: Jaime Dyhrberg  
 Community Networks  
 Wellington City Council  
 PO Box 2199  
 WELLINGTON 6140

EMAIL: [alcoholstrategy@wcc.govt.nz](mailto:alcoholstrategy@wcc.govt.nz)

## HOW WE MANAGE ALCOHOL IN WELLINGTON SUBMISSION FORM




- I wish to discuss the main points in my written submission at a hearing, to be held in early August 2013 (note oral submissions are given five minutes for individuals and 10 minutes for organisations).

I am completing this submission:

- On my own behalf     On behalf of a group or organisation

If you are representing a group or organisation, how many people do you represent?    25

Your name Michael Chow  
 Organisation name (if applicable) Cubic Bar Ltd trading as Cubic Bar  
 Organisation role (if applicable) Applicant for licence 159 Willis Street  
 Contact address cf-Chow Group Ltd, P.O. Box 19123,  
Courtenay Place, Wellington    Post code 6149  
 Phone number (day) 644 9789735    Phone number (evening) 029 230 8096  
 Email (if applicable) michael.chow@ccpl.co.nz  
 Signature     Date 1 August 2013

## DRAFT LOCAL ALCOHOL POLICY

1. Please indicate your level of satisfaction with the following provisions in the draft LAP.  
\*If you disagree, please tell us what you would like the provision to be changed to.

1a. Under the proposed zone framework, late-night trading activity of bars and entertainment venues will be moved into a specific Entertainment Precinct to better manage the harm associated with trading at this time.

The proposed Entertainment Precinct boundaries are Courtenay Place (Kent Terrace) to Cuba Street (Abel Smith Street).

(section 9 of the draft LAP)

Creating an Entertainment Precinct: (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. The proposed boundaries fail to recognise how essential it is that long standing, trouble free, 24/7 licensed establishments such as Il Bordello situated at 146 Vivian Street, Wellington, be included as part of the Entertainment Precinct, in order to:-
  - (a) Observe the object behind the LAP to provide a vibrant and dynamic central city for Wellington, in line with international models; and
  - (b) Ensure that the LAP provides "Activity Mix" as detailed on page 18 of the proposed LAP.
2. Failure to recognise establishments such as Il Bordello as essential venues in order to achieve the objects of the LAP, results in unfairness and entirely in conflict with Point 10 of the LAP.
3. Il Bordello is situated immediately adjacent to the current proposed Entertainment Precinct Boundary bordering Cuba Street. All that is required by the Council and sort by this submission, is an adjustment to the area of the Entertainment Precinct to include 146 Vivian Street Wellington.
4. Failure to recognise the need to include brothels and strip bars which currently fall just outside the "border" of the Entertainment Precinct, as part of this precinct, would effectively prevent these venues from operating after 3.00am. This would mean that Wellington could return back to pre 2003 and the Prostitution Reform Act, as the current controlled environment that Il Bordello and other brothels and strip clubs provide, keeps prostitution off the streets. If Il Bordello is unable to operate after 3.00am then prostitution would in all probability return to the streets as it was before 2003, because of the Council's short-sightedness.
5. It is essential that Wellington recognise the community service provided by Brothels and Strip Clubs and they should be appraised for this; not condemned!
6. We have been in talks with New Zealand Prostitutes Collective. Whom we work very closely with. They totally support our submissions and have lodged their own submissions, (copy attached), with a request to be able to give oral submissions as well.



- 1b. The proposed risk-based management framework reviews the suitability of all elements of the activity in relation to its impacts on the community, and provides a risk classification.

This classification will influence the licence fees charged by the Council and the types of conditions that may be applied to the licence. The lower the risk, the lower the fees charged by the Council and the fewer restrictions applied to the licence.

(section 8 of the draft LAP)

Risk-based management framework (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1c. The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafés).

**Entertainment Precinct**

7am–3am

7am–5am maximum for best-practice premises

**Central Area**

7am–2am

7am–3am maximum for best-practice premises

**Suburban Centre**

7am–midnight maximum

(section 9 of the draft LAP)

Entertainment Precinct maximum trading-hour restrictions for on-licensed venues

(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Central Area maximum trading-hour restrictions for on-licensed venues (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Suburban Centre maximum trading-hour restrictions for on-licensed venues (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. The maximum trading hour restrictions currently proposed under the LAP are too generalised, particular in regard to the categorisation of "Entertainment Venues". The LAP relies on the very generic characteristic of "premises used or intended to be used in the course of business principally by providing any performance or activity (not alcohol related), designed to engage and audience" to group venues as "Entertainment Venues". This includes at one end of the scale Cinemas and theatres, that by the very nature of the services provided, have no interest in operating late night licences, to brothels and strip clubs whose active trading period is between 3.00am to 7.00am, and which currently enjoy 24/7 licences which are different in their terms from on-licences for Taverns and Bars. (copy of current licence attached).

2. Wellington Council recognises Hospitality NZ's statistics as important, in that \$33 million in eftpos transactions occur during the time frame between 4.00am to 7.00am in Wellington alone; a clear indication of how very important it is that Brothels and strip clubs be entitled to continue to have the same trading hours as currently they are recognised as requiring, to maintain a healthy financial environment for Wellington City.
3. A solution would be to establish a new category called "Adult Entertainment". This would be a very selective but essential activity which would include brothels and strip clubs. This would:-
  - a. Recognise to what extent "Adult Entertainment" venues contribute to the liquidity of Wellington city; and
  - b. acknowledge the very real social service brothels and strip clubs provide to the community by providing controlled and healthy venues that recognise and rely upon the Prostitution Reform Act 2003; and
  - c. Appreciate that if "Adult Entertainment" Venues are not permitted to operate between the hours of 3.00am to 7,00am despite being in the Wellington CBD, there is a very real threat of prostitution returning to the streets. This carries with it the very real threat of uncontrolled alcohol abuse which could well lead to endangering the general public and placing sex industry workers in harm's way!. Nobody wants this.
4. The sex industry is without question the oldest profession known to man-kind; it is never going to go away and therefore must be recognised and controlled. The LAP can ensure that control be maintained, and monitored by the DLA, by creating this new category and allowing holders of Adult Entertainment licences to continue operating 24/7 licences.
5. Wellington City Council need be reminded why the Prostitution Reform Act was enacted in 2003. From discussions with others, we learn that Helen Ritchie, who was a Wellington Councillor at that time, was a promoter of the legislation back in 2003, because she recognised the benefit it provided to the general public. Along these lines, perhaps Inspector Terrance van Dillen who was head of the Wellington vice squad pre 2003, might be asked to tell the Council how terrible the streets were before the Prostitution Reform Act became law. It is a very real concern that must be recognised that by effectively restricting the hours that brothels and strip clubs are permitted to operate, as a direct result of their inability to sell and supply alcohol between 3.00am to 7.00am, pre 2003 bad and unsafe days will return as the sex industry will have no alternative but to resort to street walking!. This has a very real danger of resulting in the abuse of alcohol and resulting harm and damage increasing on the streets of Wellington; one of the biggest dangers the LAP wants to avoid
6. Neither should holders of Adult Entertainment Licences be restricted from trading on Good Friday, Easter Sunday, the morning of Anzac day and Christmas day. They currently provide a very necessary service to the community by being entitled to operate on these days, without an increase in violence and alcohol abuse. The sale and supply of alcohol remains a secondary service; not a primary service.
7. An alternative could be through Wellington Council recognising Adult Entertainment Venues as short term hotels. This would enable them to maintain liquor licences 24/7 on any day of the week notwithstanding which precinct they may currently fall under the proposed LAP.
8. It is acknowledged that the District Licensing Committee guide to implementing the LAP states that the DLA will not take into account any prejudicial effect that the issue of a liquor licence may have on the business conducted pursuant to any other licence.

However, in view of the object of the LAP, to promote a vibrant late night environment by providing an Activity Mix (pg 18), we believe the DLA must recognise that a great number of strip clubs, such as Mermaids in Courtenay Place provides entertainment as it's primary business activity. This entertainment extends beyond dancing to also providing patrons with the option to enjoy gaming machines. Income generated from these gaming machines, pursuant to the Gambling Act, is applied towards approved public benefits. The bulk of this 'public income' is generated between the hours of 3.00am to 7.00am. The sale and supply of alcohol is a secondary service to these two entertainment activities to ensure a healthy and comfortable environment for patrons, in a controlled environment. Whilst neither of these primary business activities relies upon the sale and supply of alcohol as the means by which the business activities can carry on, common sense must prevail and the DLA must accept that reducing the hours that strip clubs can sell and supply alcohol, will have a major affect on income generated from gambling machines. It is not the prejudicial effect on the gambling business that is relevant; rather the prejudicial effect on public funds that are generated from the gambling machines that must be taken into consideration.

9. The Infinity Foundation Limited, who run the Infinity Gambling Trust, which is empowered to distribute our gambling machine proceeds to Charitable Trusts and the likes around New Zealand, also strongly support our submissions. They have provided us with their own submissions with a request that we lodge these on their behalf, along with ours. The Infinity Foundation submissions are attached.

- 1d. The proposed maximum trading-hour restrictions of 7am–9pm for off-licensed venues (supermarkets, grocery stores, bottle stores).

(section 9 of the draft LAP)

Maximum trading-hour restrictions of 7am–9pm for off-licensed venues  
(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1e. Supermarkets, grocery and bottle stores (all off-licence venues) should be treated the same despite the different range of products they sell.

- Supermarket and grocery stores can sell only beer and wine
- Bottle stores can sell beer, wine, spirits and RTDs (ready-to-drink mixes)

Treating all off-licence venues the same (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1f. The Council will look closely at applications for the sale and supply of alcohol at youth-focused occasions or events, or those likely to attract people under the legal purchase age of 18 years.

(section 9 of the draft LAP)

Council focus on applications for youth-focused occasions or events (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

- 1g. The policy identifies circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises.

(section 10 of the draft LAP)

The proposed circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

- 1h. The proposed discretionary conditions that could be applied to a licence.

(section 11 of the draft LAP)

The proposed discretionary conditions (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the general principles behind the proposed discretionary conditions.
2. Care however needs to be given in determining which type of licence attracts which discretionary conditions. For example, whilst a one way door policy is very appropriate to Tavern and other Bar venues whose principal business is the sale and supply of alcohol and frequented by youth under the age of 25, this is not applicable to our establishments, where our patrons are mature and older men who do not participate in front end and side loading. Our alcohol prices are, as a general rule, more expensive than bars and taverns which detracts the youth who are on limited budgets, from frequenting our establishments.
3. Nor would a wind down hour be appropriate for Brothels and Strip Clubs, for obvious reasons.
4. It is very important to see Strip Clubs and Brothels as necessarily associated and therefore grouped together for the purpose of enforcing conditions. Virtually all Strip Clubs are the 'lounge' for brothels, which are nearly always upstairs in the same building. Brothels and

Strip Clubs are therefore , dependent on each other to ensure continued business and maintaining control over the entire establishment.

5. It is wrong to treat Strip Clubs and Brothels which are entertainment Licence Venues, in the same way as Taverns and Bars which are straight on-premise consumption businesses.

2. Overall, do you agree with the direction of the draft Local Alcohol Policy? (please tick one only)
- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the direction of the draft LAP in principle.
2. In order to be effective and maintainable, it needs to be refined in terms of our submissions.

Please be as specific as possible to help us understand your views. It is helpful if you clearly state the page(s) and/or section number(s) of the draft LAP you are commenting on.)

3. What are the best aspects of the draft Local Alcohol Policy?

1. The control over offending of alcohol by the youth of Wellington, particularly to reduce the harm alcohol is inflicting on youth in Wellington between the ages of 15 to 25 (see the figures from Regional Public Health in Wellington);
2. The restrictions on off-licences.
3. The power of the DLA in enforcing conditions and controlling alcohol abuse;
4. Community involvement.

4. What aspects of the draft Local Alcohol Policy do you think need to be changed?

1. The restriction of what we are referring to in these submissions as Adult Entertainment Venues based upon which Precinct they are located;
2. The restrictions on maximum hours Licensed Adult Entertainment Venues and Brothels may operate considering that their busiest business times are between 3.00am to 7.00am. In short we submit that maintaining 24/7 licensing hours (at any time on any day) as the status quo for the existing trouble free low risk such premises is essential in the LAP.

5. Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?

## DRAFT ALCOHOL MANAGEMENT STRATEGY

6. The proposed goals in the draft Alcohol Management Strategy are achievable (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We believe that the Alcohol Management Strategy is in principal achievable. **HOWEVER** it can only be maintained if amended as per our submissions.

7. The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the proposed initiatives, subject to the amendments we seek to meet our objections.

8. The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:



**Submission on the Draft Alcohol Management Strategy,  
how we Manage Alcohol in Wellington**

To: Jaime Dyhrberg  
Community Networks  
Wellington City Council  
PO Box 2199  
WELLINGTON 6140

From: Infinity Foundation Limited  
405 A King Street North  
Hastings

Date: 01 August 2013

## **1. Introduction**

- 1.1 Infinity Foundation is a not for profit Limited liability company, known as a Class 4 Society under the Gambling Act 2003. Infinity is committed to supporting New Zealand communities using proceeds raised from gaming machines. Venues and their operators are licenced by the Department of Internal Affairs for gaming and licenced under the Sale of Liquor Act 1989 for liquor.
- 1.2 The Society was established in 2006 and in the last financial year its turnover (net of GST) was \$43m returning almost \$18m to a wide range of community organisations including:
  - Community groups;
  - Sports clubs and organisations;
  - Cultural groups;
  - Emergency services;
  - Youth and education; and
  - Health
- 1.3 Infinity Foundation's policy is to distribute a minimum of 80% of funds directly back into the communities from where they were raised.
- 1.4 Infinity Foundation venues directly support many local Wellington communities, including the Wellington City Council through gaming machines raised in their venues.
- 1.5 A valued licensed operator is Mermaids, situated at 75 Courtenay place, in Wellington City. ("Mermaids").

## **2. Infinity's Broad position on the Alcohol Strategy**

- 2.1 Infinity Foundation generally supports the intent of the Local Alcohol Policy (LAP), which is to reduce and minimize the harm associated with alcohol.
- 2.2 These are principles that we totally support.
- 2.3 It is considered that some of the LAP proposals will result in unintended negative consequences that were not foreseen by the Council – and we cannot support these.
- 2.4 For example, Mermaids provides a valuable service to the Wellington community in that it is a safe, very comfortable and controlled entertainment environment for late night patrons (taxi drivers, cooks, shift workers, hotel workers, bar staff etc) to enjoy a social drink, strip tease dancing and to try their hand on the gambling machines situated at Mermaids.
- 2.5 Mermaids generates a substantial level of income for Infinity Foundation, particularly during the hours of 3.00am to 7.00am, 24/7.
- 2.6 We are deeply concerned that the proposed Wellington Local Alcohol Policy could very well reduce the effective hours and service that Mermaids and other strip clubs and brothels are able to operate within the Wellington CBD.

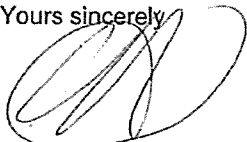


- 2.7 Our research and feedback from publicans over the years has disclosed that patrons do not tend to frequent venues with gaming machines that do not also sell and supply alcohol, as much as those that do. For example, in a general sense a standalone TAB that does not sell alcohol is of lower gaming turnover than a pub with a TAB that has a liquor license.
- 2.8 With this in mind, we are very concerned that if the hours that Mermaid's are permitted to sell and supply alcohol is significantly reduced between the hours of 1.00am to 7.00am, which appears to be the case, then our income stream that we use for local charitable purposes will also be drastically reduced.
- 2.9 There is insufficient time before 2nd August 2013 (due date), to obtain statistics from the Department of Internal Affairs, which we are certain will confirm to Wellington Council, how much money is earned from gaming machines located at licensed venues between 1:00am to 7:00am. However from discussions with publicans we can confirm that gaming activity during this time is substantial and a significant consideration to be taken into account by Wellington City Council when implementing this proposed LAP.

### 3. Conclusion

- 3.1 Only the Wellington City Council can decide if their decision is an emotive vote or a vote supported by accurate facts and the known real needs of the New Zealand community. It is vital that the council carefully balance the needs and requirements of the entire community when determining policies on what alcohol sales should be permitted to occur along with where, and how.
- 3.2 Community groups rely on gaming machine funding for a multitude of support, particularly salaries and essential projects and activities to enable them to meet growing community needs and provide these essential services. Funding provided by Government controlled boards has stringent criteria to meet and is difficult to qualify for, many community groups find the requirements difficult to meet either due to unrealistic expectations or limited resource. This will be a case of you wont know how good it was until it's gone!
- 3.3 We strongly urge the council to consider the impact of the reduction in funding available for community purposes if the proposed LAP is implemented in its current state.
- 3.4 We thank you for your time in considering this submission.

Yours sincerely



Gillian Wells  
General Manager  
Infinity Foundation Ltd  
021 536 983

**SUBMISSION OF THE NEW ZEALAND PROSTITUTES COLLECTIVE TO THE  
WELLINGTON CITY COUNCIL  
ON THE  
LOCAL ALCOHOL POLICY**

1. We represent the New Zealand Prostitutes Collective (NZPC), which is concerned about the safety, health and rights of sex workers. We provide services to sex workers throughout New Zealand. We wish to be heard in relation to the effects the proposed Wellington Local Alcohol Policy ("LAP") will have on sex workers in Wellington.
2. We are seriously concerned about the proposed changes as they may have serious effects upon the employment and working conditions of significant numbers of sex industry workers in the Wellington District.
3. Our submission is based upon the following criteria:-
  - (a) To observe the purpose behind the Prostitution Reform Act 2003 ("The Act"), which is to:-
    - (i) safeguard the human rights of sex workers and protects them from exploitation; and
    - (ii) promote the welfare and occupational health and safety of sex workers.; and
    - (iii) ensure that sex workers are provided with controlled environments conducive to public health
  - (b) Large numbers of sex industry workers are dependent on work in managed commercial sex venues, such as brothels and strip clubs with liquor licences. This is particularly true for dancers in strip clubs.
  - (c) While some dancers will seek self employment by dancing for private parties, in the main, they are more protected in managed environments, such as those clubs that currently exist within the Wellington CBD.
  - (d) For a large number of sex workers their busiest time is generally between the hours of 1.00am to 7.00am.
4. Strip clubs and brothels have had a long history of providing commercial sex services within the Wellington CBD, and have usually provided alcohol while doing so, within the context of liquor licensing.

5. While we have a concern about alcohol and its potential impact on safer sex cultures within the sex industry, we recognise that it is better that alcohol be sold in a licensed, and therefore more controlled, environment, and not be driven underground into a context where “complimentary” drinks, which may be unlimited, are served in unlicensed, and potentially uncontrolled, settings.
6. NZPC’s concern is if the sale and supply of alcohol by brothels and strip clubs is not permitted during the hours of 1.00am to 7.00am 7 days a week, then this proposed plan by the Council may result in these significant brothel and strip club businesses closing down, and thereby reducing the work options available for many of these sex industry workers.
7. We realise there is a fine line between providing alcohol, commercial sexual services, and exotic dancing. NZPC notes that clients are unlikely to visit these inner city brothels and strip clubs after 1am if access to alcohol is restricted. There are some unique features that we urge the Council to take into account as it considers this proposed LAP. For many, working in these clubs is their primary means of income and employment; and it is a late night activity, which is often complimented by a social environment. If the LAP is passed, it would have a considerable impact on the sex industry, and probably result in dancers and a significant number of sex workers losing their livelihood, as it may be difficult for people to find work in brothels or strip clubs., or finding any other work.
8. We share the concerns of those from the sex industry who have submitted that this LAP will considerably undermine the working conditions and options of sex workers.
9. We wish to give oral submissions on 8<sup>th</sup> August 2013 as a follow up and in support of this written submission.

Catherine Healy  
National Co-ordinator  
New Zealand Prostitutes Collective  
PO Box 11-412  
Manners St  
Wellington 6142  
Ph: 04 382 8791

## **Extracts from the Prostitution Reform Act 2003.**

### **3 Purpose**

The purpose of this Act is to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use) and to create a framework that—

- (a) safeguards the human rights of sex workers and protects them from exploitation:
- (b) promotes the welfare and occupational health and safety of sex workers:
- (c) is conducive to public health:
- (d) prohibits the use in prostitution of persons under 18 years of age:
- (e) implements certain other related reforms.

### **5 Definition of operator**

(1) In this Act, **operator**, in relation to a business of prostitution, means a person who, whether alone or with others, owns, operates, controls, or manages the business; and includes (without limitation) any person who—

- (a) is the director of a company that is an operator; or
- (b) determines—
  - (i) when or where an individual sex worker will work; or
  - (ii) the conditions in which sex workers in the business work; or
  - (iii) the amount of money, or proportion of an amount of money, that a sex worker receives as payment for prostitution; or
- (c) is a person who employs, supervises, or directs any person who does any of the things referred to in paragraph (b).

(2) Despite anything in subsection (1), a sex worker who works at a small owner-operated brothel is not an operator of that business of prostitution, and, for the purposes of this Act, a small owner-operated brothel does not have an operator.

### **9 Sex workers and clients must adopt safer sex practices**

(1) A person must not provide or receive commercial sexual services unless he or she has taken all reasonable steps to ensure a prophylactic sheath or other appropriate barrier is used if those services involve vaginal, anal, or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections.

(2) A person must not, for the purpose of providing or receiving commercial sexual services, state or imply that a medical examination of that person means that he or she is not infected, or likely to be infected, with a sexually transmissible infection.

(3) A person who provides or receives commercial sexual services must take all other reasonable steps to minimise the risk of acquiring or transmitting sexually transmissible infections.

(4) Every person who contravenes subsection (1), subsection (2), or subsection (3) commits an offence and is liable on conviction to a fine not exceeding \$2,000

### **10 Application of Health and Safety in Employment Act 1992**

(1) A sex worker is at work for the purposes of the Health and Safety in Employment Act 1992 while providing commercial sexual services.

(2) However, nothing in this Act (including subsection (1)) limits that Act or any regulations or approved codes of practice under that Act.

### **36 Disqualification from holding certificate**

(1) A person is disqualified from holding a certificate if he or she has been convicted at any time of any of the disqualifying offences set out in subsection (2), or has been convicted of an attempt to commit any such offence, of conspiring to commit any such offence, or of being an accessory after the fact to any such offence.

(2) The disqualifying offences are as follows:

(a) an offence under this Act (other than an offence under section 39(3), section 40(2), and section 41(3)):

(b) an offence under any of the following sections or Parts of the Crimes Act 1961 that is punishable by 2 or more years' imprisonment:

(i) section 98A (participation in an organised criminal group):

(ii) sections 127 to 144C (includes sexual crimes):

(iii) Part 8 (includes murder, manslaughter, assault, and abduction):

(iv) sections 234 to 244 (robbery, extortion, and burglary):

(v) section 257A (money laundering):

(c) an offence under the Arms Act 1983 that is punishable by imprisonment:

(d) in relation to the Misuse of Drugs Act 1975,—

(i) an offence under section 6 (other than possession of a Class C controlled drug):

(ii) an offence under section 9, section 12A, section 12AB, or section 12B:

(iii) an offence under any other section, but only if it relates to a Class A or a Class B controlled drug.

Section 36(2)(d)(ii): amended, on 22 June 2005, by section 23 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

**Giselle Baretta**

SUBMISSION No. **293**

See attached submission

**From:** Bradley Watson [Bradley.Watson@cgml.co.nz]  
**Sent:** Friday, 2 August 2013 11:56 a.m.  
**To:** BUS: Alcohol Strategy  
**Subject:** WRITTEN SUBMISSIONS ON BEHALF OF SPLASH CLUB RELATING TO WELLINGTON LAP  
**Importance:** High  
**Attachments:** Submissions\_Wgtn\_LAP\_Splash\_Club\_1.8.13.pdf  
Friday, 2 August 2013

FOR THE ATTENTION OF: JAMIE DYHRBERG.

ATTACHED: Submissions on behalf of SPLASH CLUB in Wellington.

PLEASE NOTE we have instructed Mr Alastair Sherriff of Buddle Findlay to present oral submissions on our behalf on 8 August 2013. He will also be giving oral submissions on behalf of Il Bordello, Splash Club and Cubic Bar (in Willis Street Wellington); in total 4 sets of submissions in support of 4 written submissions.

We would appreciate if you could liaise directly with Alastair Sherriff to book in a time for him to present his oral submissions between the hours of 5:00pm to 8:00pm on 8 August 2013.

Please feel free to contact the writer should you require any further information or assistance.

Yours faithfully  
**CHOW GROUP LIMITED**  
Per: Bradley J Watson LLB  
Email: Bradley.watson@cgml.co.nz  
Mble: 021 858 726  
Landline: (09) 222 0888

**Bradley J Watson LLB**  
**Legal Consultant**  
**Mble: +6421 858 726**  
**Office: 09 369 1719**  
[www.cgml.co.nz](http://www.cgml.co.nz)  
**Auckland Office:** PO 106-274, Level 5, 203 Queen Street, Auckland 1143  
**Wellington Office:** PO Box 19123, level 1, 147 Tory Street, Wellington 6011

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Friday 8 August 2013

**CONFIRMATION OF  
WRITTEN  
SUBMISSIONS  
EMAILED TO YOU ON  
FRIDAY 8 AUGUST  
2013 AT 11.56 AM ON  
BEHALF OF SPLASH  
CLUB**



To: Jaime Dyhrberg  
Community Networks  
Wellington City Council  
PO Box 2199  
WELLINGTON 6140

EMAIL: [alcoholstrategy@wcc.govt.nz](mailto:alcoholstrategy@wcc.govt.nz)

# HOW WE MANAGE ALCOHOL IN WELLINGTON SUBMISSION FORM



I wish to discuss the main points in my written submission at a hearing, to be held in early August 2013 (note oral submissions are given five minutes for individuals and 10 minutes for organisations).

I am completing this submission:

On my own behalf     On behalf of a group or organisation

If you are representing a group or organisation, how many people do you represent? 80

Your name Michael Chow  
Organisation name (if applicable) Chow Group Ltd, trading as Splash Club  
Organisation role (if applicable) Current liquor licence holder  
Contact address 4-Chow Group Ltd, P.O. Box 19123  
Courtenay Place, Wellington Post code 6149  
Phone number (day) 644 978 9735 Phone number (evening) 029 230 8090  
Email (if applicable) michael.chow@cgml.co.nz  
Signature [Signature] Date 1 August 2013

## DRAFT LOCAL ALCOHOL POLICY

1. Please indicate your level of satisfaction with the following provisions in the draft LAP.  
\*If you disagree, please tell us what you would like the provision to be changed to.

1a. Under the proposed zone framework, late-night trading activity of bars and entertainment venues will be moved into a specific Entertainment Precinct to better manage the harm associated with trading at this time.

The proposed Entertainment Precinct boundaries are Courtenay Place (Kent Terrace) to Cuba Street (Abel Smith Street).

(section 9 of the draft LAP)

Creating an Entertainment Precinct: (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. The proposed boundaries fail to recognise how essential it is that long standing, trouble free, 24/7 licensed establishments such as Il Bordello situated at 146 Vivian Street, Wellington, be included as part of the Entertainment Precinct, in order to:-
  - (a) Observe the object behind the LAP to provide a vibrant and dynamic central city for Wellington, in line with international models; and
  - (b) Ensure that the LAP provides "Activity Mix" as detailed on page 18 of the proposed LAP.
2. Failure to recognise establishments such as Il Bordello as essential venues in order to achieve the objects of the LAP, results in unfairness and entirely in conflict with Point 10 of the LAP.
3. Il Bordello is situated immediately adjacent to the current proposed Entertainment Precinct Boundary bordering Cuba Street. All that is required by the Council and sort by this submission, is an adjustment to the area of the Entertainment Precinct to include 146 Vivian Street Wellington.
4. Failure to recognise the need to include brothels and strip bars which currently fall just outside the "border" of the Entertainment Precinct, as part of this precinct, would effectively prevent these venues from operating after 3.00am. This would mean that Wellington could return back to pre 2003 and the Prostitution Reform Act, as the current controlled environment that Il Bordello and other brothels and strip clubs provide, keeps prostitution off the streets. If Il Bordello is unable to operate after 3.00am then prostitution would in all probability return to the streets as it was before 2003, because of the Council's short-sightedness.
5. It is essential that Wellington recognise the community service provided by Brothels and Strip Clubs and they should be appraised for this; not condemned!
6. We have been in talks with New Zealand Prostitutes Collective. Whom we work very closely with. They totally support our submissions and have lodged their own submissions, (copy attached), with a request to be able to give oral submissions as well.

- 1b. The proposed risk-based management framework reviews the suitability of all elements of the activity in relation to its impacts on the community, and provides a risk classification.

This classification will influence the licence fees charged by the Council and the types of conditions that may be applied to the licence. The lower the risk, the lower the fees charged by the Council and the fewer restrictions applied to the licence.

(section 8 of the draft LAP)

Risk-based management framework (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1c. The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafes).

**Entertainment Precinct**

7am–3am

7am–5am maximum for best-practice premises

**Central Area**

7am–2am

7am–3am maximum for best-practice premises

**Suburban Centre**

7am–midnight maximum

(section 9 of the draft LAP)

Entertainment Precinct maximum trading-hour restrictions for on-licensed venues

(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Central Area maximum trading-hour restrictions for on-licensed venues (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Suburban Centre maximum trading-hour restrictions for on-licensed venues (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. The maximum trading hour restrictions currently proposed under the LAP are too generalised, particular in regard to the categorisation of "Entertainment Venues". The LAP relies on the very generic characteristic of "premises used or intended to be used in the course of business principally by providing any performance or activity (not alcohol related), designed to engage and audience" to group venues as "Entertainment Venues". This includes at one end of the scale Cinemas and theatres, that by the very nature of the services provided, have no interest in operating late night licences, to brothels and strip clubs whose active trading period is between 3.00am to 7.00am, and which currently enjoy 24/7 licences which are different in their terms from on-licences for Taverns and Bars. (copy of current licence attached).

2. Wellington Council recognises Hospitality NZ's statistics as important, in that \$33 million in eftpos transactions occur during the time frame between 4.00am to 7.00am in Wellington alone; a clear indication of how very important it is that Brothels and strip clubs be entitled to continue to have the same trading hours as currently they are recognised as requiring, to maintain a healthy financial environment for Wellington City.
3. A solution would be to establish a new category called "Adult Entertainment". This would be a very selective but essential activity which would include brothels and strip clubs. This would:-
  - a. Recognise to what extent "Adult Entertainment" venues contribute to the liquidity of Wellington city; and
  - b. acknowledge the very real social service brothels and strip clubs provide to the community by providing controlled and healthy venues that recognise and rely upon the Prostitution Reform Act 2003; and
  - c. Appreciate that if "Adult Entertainment" Venues are not permitted to operate between the hours of 3.00am to 7,00am despite being in the Wellington CBD, there is a very real threat of prostitution returning to the streets. This carries with it the very real threat of uncontrolled alcohol abuse which could well lead to endangering the general public and placing sex industry workers in harm's way!. Nobody wants this.
4. The sex industry is without question the oldest profession known to man-kind; it is never going to go away and therefore must be recognised and controlled. The LAP can ensure that control be maintained, and monitored by the DLA, by creating this new category and allowing holders of Adult Entertainment licences to continue operating 24/7 licences.
5. Wellington City Council need be reminded why the Prostitution Reform Act was enacted in 2003. From discussions with others, we learn that Helen Ritchie, who was a Wellington Councillor at that time, was a promoter of the legislation back in 2003, because she recognised the benefit it provided to the general public. Along these lines, perhaps Inspector Terrance van Dillen who was head of the Wellington vice squad pre 2003, might be asked to tell the Council how terrible the streets were before the Prostitution Reform Act became law. It is a very real concern that must be recognised that by effectively restricting the hours that brothels and strip clubs are permitted to operate, as a direct result of their inability to sell and supply alcohol between 3.00am to 7.00am, pre 2003 bad and unsafe days will return as the sex industry will have no alternative but to resort to street walking!. This has a very real danger of resulting in the abuse of alcohol and resulting harm and damage increasing on the streets of Wellington; one of the biggest dangers the LAP wants to avoid
6. Neither should holders of Adult Entertainment Licences be restricted from trading on Good Friday, Easter Sunday, the morning of Anzac day and Christmas day. They currently provide a very necessary service to the community by being entitled to operate on these days, without an increase in violence and alcohol abuse. The sale and supply of alcohol remains a secondary service; not a primary service.
7. An alternative could be through Wellington Council recognising Adult Entertainment Venues as short term hotels. This would enable them to maintain liquor licences 24/7 on any day of the week notwithstanding which precinct they may currently fall under the proposed LAP.
8. It is acknowledged that the District Licensing Committee guide to implementing the LAP states that the DLA will not take into account any prejudicial effect that the issue of a liquor licence may have on the business conducted pursuant to any other licence.

However, in view of the object of the LAP, to promote a vibrant late night environment by providing an Activity Mix (pg 18), we believe the DLA must recognise that a great number of strip clubs, such as Mermaids in Courtenay Place provides entertainment as it's primary business activity. This entertainment extends beyond dancing to also providing patrons with the option to enjoy gaming machines. Income generated from these gaming machines, pursuant to the Gambling Act, is applied towards approved public benefits. The bulk of this 'public income' is generated between the hours of 3.00am to 7.00am. The sale and supply of alcohol is a secondary service to these two entertainment activities to ensure a healthy and comfortable environment for patrons, in a controlled environment. Whilst neither of these primary business activities relies upon the sale and supply of alcohol as the means by which the business activities can carry on, common sense must prevail and the DLA must accept that reducing the hours that strip clubs can sell and supply alcohol, will have a major affect on income generated from gambling machines. It is not the prejudicial effect on the gambling business that is relevant; rather the prejudicial effect on public funds that are generated from the gambling machines that must be taken into consideration.

9. The Infinity Foundation Limited, who run the Infinity Gambling Trust, which is empowered to distribute our gambling machine proceeds to Charitable Trusts and the likes around New Zealand, also strongly support our submissions. They have provided us with their own submissions with a request that we lodge these on their behalf, along with ours. The Infinity Foundation submissions are attached.

- 1d. The proposed maximum trading-hour restrictions of 7am–9pm for off-licensed venues (supermarkets, grocery stores, bottle stores).

(section 9 of the draft LAP)

Maximum trading-hour restrictions of 7am–9pm for off-licensed venues  
(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1e. Supermarkets, grocery and bottle stores (all off-licence venues) should be treated the same despite the different range of products they sell.

- Supermarket and grocery stores can sell only beer and wine
- Bottle stores can sell beer, wine, spirits and RTDs (ready-to-drink mixes)

Treating all off-licence venues the same (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

- 1f. The Council will look closely at applications for the sale and supply of alcohol at youth-focused occasions or events, or those likely to attract people under the legal purchase age of 18 years.  
(section 9 of the draft LAP)

Council focus on applications for youth-focused occasions or events (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

- 1g. The policy identifies circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises.  
(section 10 of the draft LAP)

The proposed circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

- 1h. The proposed discretionary conditions that could be applied to a licence.  
(section 11 of the draft LAP)

The proposed discretionary conditions (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the general principles behind the proposed discretionary conditions.
2. Care however needs to be given in determining which type of licence attracts which discretionary conditions. For example, whilst a one way door policy is very appropriate to Tavern and other Bar venues whose principal business is the sale and supply of alcohol and frequented by youth under the age of 25, this is not applicable to our establishments, where our patrons are mature and older men who do not participate in front end and side loading. Our alcohol prices are, as a general rule, more expensive than bars and taverns which detracts the youth who are on limited budgets, from frequenting our establishments.
3. Nor would a wind down hour be appropriate for Brothels and Strip Clubs, for obvious reasons.
4. It is very important to see Strip Clubs and Brothels as necessarily associated and therefore grouped together for the purpose of enforcing conditions. Virtually all Strip Clubs are the 'lounge' for brothels, which are nearly always upstairs in the same building. Brothels and

Strip Clubs are therefore , dependent on each other to ensure continued business and maintaining control over the entire establishment.

5. It is wrong to treat Strip Clubs and Brothels which are entertainment Licence Venues, in the same way as Taverns and Bars which are straight on-premise consumption businesses.

2. Overall, do you agree with the direction of the draft Local Alcohol Policy? (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

1. We agree with the direction of the draft LAP in principle.
2. In order to be effective and maintainable, it needs to be refined in terms of our submissions.

Please be as specific as possible to help us understand your views. It is helpful if you clearly state the page(s) and/or section number(s) of the draft LAP you are commenting on.)

3. What are the best aspects of the draft Local Alcohol Policy?

1. The control over offending of alcohol by the youth of Wellington, particularly to reduce the harm alcohol is inflicting on youth in Wellington between the ages of 15 to 25 (see the figures from Regional Public Health in Wellington);
2. The restrictions on off-licences.
3. The power of the DLA in enforcing conditions and controlling alcohol abuse;
4. Community involvement.

4. What aspects of the draft Local Alcohol Policy do you think need to be changed?

1. The restriction of what we are referring to in these submissions as Adult Entertainment Venues based upon which Precinct they are located;
2. The restrictions on maximum hours Licensed Adult Entertainment Venues and Brothels may operate considering that their busiest business times are between 3.00am to 7.00am. In short we submit that maintaining 24/7 licensing hours (*at any time on any day*) as the status quo for the existing trouble free low risk such premises is essential in the LAP.

5. Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?

## DRAFT ALCOHOL MANAGEMENT STRATEGY

6. The proposed goals in the draft Alcohol Management Strategy are achievable (please tick one only)

Strongly agree    Agree    Disagree    Strongly disagree    Don't know

Please give reasons:

1. We believe that the Alcohol Management Strategy is in principal achievable. **HOWEVER** it can only be maintained if amended as per our submissions.

7. The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals (please tick one only)

Strongly agree    Agree    Disagree    Strongly disagree    Don't know

Please give reasons:

1. We agree with the proposed initiatives, subject to the amendments we seek to meet our objections.

8. The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol (please tick one only)

Strongly agree    Agree    Disagree    Strongly disagree    Don't know

Please give reasons:



# On Licence

Sections 7 and 114, Sale of Liquor Act 1989

**Absolutely**

**POSITIVELY**

ME HEKE KI PŌNEKE  
WELLINGTON CITY COUNCIL

**Wellington**

049/ON/98/2011

PURSUANT to the Sale of Liquor Act 1989, **CHOW GROUP LIMITED** is authorised to sell and supply liquor on the premises situated on the First Floor, 73-75 Courtenay Place, Wellington and known as "**Splash Club**", for consumption on the premises to **any person who is present on the premises** and to allow the consumption of liquor on the premises by any such person.

The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with Part 6 of the Act.

## CONDITIONS

This licence is subject to the following conditions:

- (a) The licensee must have available for consumption on the premises, at all times when the premises are open for the sale of liquor, a reasonable range of non-alcoholic refreshments and low-alcohol beverages.
- (b) Liquor may be sold only on the following days and during the following hours:  
**At any time on any day when the premises is being operated as a Brothel.**
- (c) Food must be available for consumption on the premises at all times when the premises are open for the sale of liquor in accordance with the menu submitted with the application for the licence, or variations of the menu of a similar range and standard.
- (d) **The whole of the premises is designated as a restricted area.**
- (e) The licensee must ensure that signs are prominently displayed within the licensed premises detailing information regarding alternative forms of transport from the premises.
- (f) The licensee must implement and maintain the steps proposed in the application for the licence aimed at promoting the responsible consumption of liquor
- (g) The licensee must ensure that the provisions of the Act relating to the sale and supply of liquor to prohibited persons are observed and must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of liquor to minors and the complete prohibition on sales to intoxicated persons.

## THE LICENSED PREMISES

In terms of Regulation 7 of the Sale of Liquor Regulations 1990 the sale, supply or consumption of liquor is authorised in the premises generally. The premises located on the First Floor, 73-75 Courtenay Place, Wellington are more precisely identified as outlined in a plan date stamped as received by the Wellington District Licensing Agency on 8 March 2001.

## DISPLAY OF LICENCE AND PRINCIPAL ENTRANCE


A copy of this licence must be displayed at the principal entrance to the premises. The entrance from Courtenay Place is designated as the principal entrance.

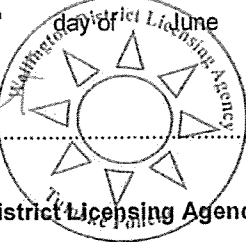
## DURATION

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence continues in force –

- (a) If an application for the renewal of the licence is duly made, until the application is determined; or
- (b) If the licence is renewed, until the close of the period for which it is renewed.

ORIGINALLY DATED at WELLINGTON this 13<sup>th</sup> day of June 2001

  
J Burt  
for Secretary  
Wellington District Licensing Agency



## RENEWAL NOTICE

This licence replaces Licence No. 049/ON/188/2008.  
This licence shall expire on the 13<sup>th</sup> day of June 2014, unless again renewed.



**Submission on the Draft Alcohol Management Strategy,  
how we Manage Alcohol in Wellington**

To: Jaime Dyhrberg  
Community Networks  
Wellington City Council  
PO Box 2199  
WELLINGTON 6140

From: Infinity Foundation Limited  
405 A King Street North  
Hastings

Date: 01 August 2013

## **1. Introduction**

- 1.1 Infinity Foundation is a not for profit Limited liability company, known as a Class 4 Society under the Gambling Act 2003. Infinity is committed to supporting New Zealand communities using proceeds raised from gaming machines. Venues and their operators are licenced by the Department of Internal Affairs for gaming and licenced under the Sale of Liquor Act 1989 for liquor.
- 1.2 The Society was established in 2006 and in the last financial year its turnover (net of GST) was \$43m returning almost \$18m to a wide range of community organisations including:
  - Community groups;
  - Sports clubs and organisations;
  - Cultural groups;
  - Emergency services;
  - Youth and education; and
  - Health
- 1.3 Infinity Foundation's policy is to distribute a minimum of 80% of funds directly back into the communities from where they were raised.
- 1.4 Infinity Foundation venues directly support many local Wellington communities, including the Wellington City Council through gaming machines raised in their venues.
- 1.5 A valued licensed operator is Mermaids, situated at 75 Courtenay place, in Wellington City. ("Mermaids").

## **2. Infinity's Broad position on the Alcohol Strategy**

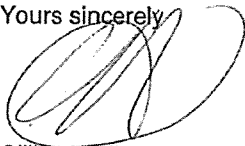
- 2.1 Infinity Foundation generally supports the intent of the Local Alcohol Policy (LAP), which is to reduce and minimize the harm associated with alcohol.
- 2.2 These are principles that we totally support.
- 2.3 It is considered that some of the LAP proposals will result in unintended negative consequences that were not foreseen by the Council – and we cannot support these.
- 2.4 For example, Mermaids provides a valuable service to the Wellington community in that it is a safe, very comfortable and controlled entertainment environment for late night patrons (taxi drivers, cooks, shift workers, hotel workers, bar staff etc) to enjoy a social drink, strip tease dancing and to try their hand on the gambling machines situated at Mermaids.
- 2.5 Mermaids generates a substantial level of income for Infinity Foundation, particularly during the hours of 3.00am to 7.00am, 24/7.
- 2.6 We are deeply concerned that the proposed Wellington Local Alcohol Policy could very well reduce the effective hours and service that Mermaids and other strip clubs and brothels are able to operate within the Wellington CBD.

- 2.7 Our research and feedback from publicans over the years has disclosed that patrons do not tend to frequent venues with gaming machines that do not also sell and supply alcohol, as much as those that do. For example, in a general sense a standalone TAB that does not sell alcohol is of lower gaming turnover than a pub with a TAB that has a liquor license.
- 2.8 With this in mind, we are very concerned that if the hours that Mermaid's are permitted to sell and supply alcohol is significantly reduced between the hours of 1.00am to 7.00am, which appears to be the case, then our income stream that we use for local charitable purposes will also be drastically reduced.
- 2.9 There is insufficient time before 2nd August 2013 (due date), to obtain statistics from the Department of Internal Affairs, which we are certain will confirm to Wellington Council, how much money is earned from gaming machines located at licensed venues between 1:00am to 7:00am. However from discussions with publicans we can confirm that gaming activity during this time is substantial and a significant consideration to be taken into account by Wellington City Council when implementing this proposed LAP.

### **3. Conclusion**

- 3.1 Only the Wellington City Council can decide if their decision is an emotive vote or a vote supported by accurate facts and the known real needs of the New Zealand community. It is vital that the council carefully balance the needs and requirements of the entire community when determining policies on what alcohol sales should be permitted to occur along with where, and how.
- 3.2 Community groups rely on gaming machine funding for a multitude of support, particularly salaries and essential projects and activities to enable them to meet growing community needs and provide these essential services. Funding provided by Government controlled boards has stringent criteria to meet and is difficult to qualify for, many community groups find the requirements difficult to meet either due to unrealistic expectations or limited resource. This will be a case of you wont know how good it was until it's gone!
- 3.3 We strongly urge the council to consider the impact of the reduction in funding available for community purposes if the proposed LAP is implemented in its current state.
- 3.4 We thank you for your time in considering this submission.

Yours sincerely



Gillian Wells  
General Manager  
Infinity Foundation Ltd  
021 536 983

**SUBMISSION OF THE NEW ZEALAND PROSTITUTES COLLECTIVE TO THE  
WELLINGTON CITY COUNCIL  
ON THE  
LOCAL ALCOHOL POLICY**

1. We represent the New Zealand Prostitutes Collective (NZPC), which is concerned about the safety, health and rights of sex workers. We provide services to sex workers throughout New Zealand. We wish to be heard in relation to the effects the proposed Wellington Local Alcohol Policy ("LAP") will have on sex workers in Wellington.
2. We are seriously concerned about the proposed changes as they may have serious effects upon the employment and working conditions of significant numbers of sex industry workers in the Wellington District.
3. Our submission is based upon the following criteria:-
  - (a) To observe the purpose behind the Prostitution Reform Act 2003 ("The Act"), which is to:-
    - (i) safeguard the human rights of sex workers and protects them from exploitation; and
    - (ii) promote the welfare and occupational health and safety of sex workers.; and
    - (iii) ensure that sex workers are provided with controlled environments conducive to public health
  - (b) Large numbers of sex industry workers are dependent on work in managed commercial sex venues, such as brothels and strip clubs with liquor licences. This is particularly true for dancers in strip clubs.
  - (c) While some dancers will seek self employment by dancing for private parties, in the main, they are more protected in managed environments, such as those clubs that currently exist within the Wellington CBD.
  - (d) For a large number of sex workers their busiest time is generally between the hours of 1.00am to 7.00am.
4. Strip clubs and brothels have had a long history of providing commercial sex services within the Wellington CBD, and have usually provided alcohol while doing so, within the context of liquor licensing.

5. While we have a concern about alcohol and its potential impact on safer sex cultures within the sex industry, we recognise that it is better that alcohol be sold in a licensed, and therefore more controlled, environment, and not be driven underground into a context where “complimentary” drinks, which may be unlimited, are served in unlicensed, and potentially uncontrolled, settings.
6. NZPC’s concern is if the sale and supply of alcohol by brothels and strip clubs is not permitted during the hours of 1.00am to 7.00am 7 days a week, then this proposed plan by the Council may result in these significant brothel and strip club businesses closing down, and thereby reducing the work options available for many of these sex industry workers.
7. We realise there is a fine line between providing alcohol, commercial sexual services, and exotic dancing. NZPC notes that clients are unlikely to visit these inner city brothels and strip clubs after 1am if access to alcohol is restricted. There are some unique features that we urge the Council to take into account as it considers this proposed LAP. For many, working in these clubs is their primary means of income and employment; and it is a late night activity, which is often complimented by a social environment. If the LAP is passed, it would have a considerable impact on the sex industry, and probably result in dancers and a significant number of sex workers losing their livelihood, as it may be difficult for people to find work in brothels or strip clubs., or finding any other work.
8. We share the concerns of those from the sex industry who have submitted that this LAP will considerably undermine the working conditions and options of sex workers.
9. We wish to give oral submissions on 8<sup>th</sup> August 2013 as a follow up and in support of this written submission.

Catherine Healy  
National Co-ordinator  
New Zealand Prostitutes Collective  
PO Box 11-412  
Manners St  
Wellington 6142  
Ph: 04 382 8791

## **Extracts from the Prostitution Reform Act 2003.**

### **3 Purpose**

The purpose of this Act is to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use) and to create a framework that—

- (a) safeguards the human rights of sex workers and protects them from exploitation;
- (b) promotes the welfare and occupational health and safety of sex workers;
- (c) is conducive to public health;
- (d) prohibits the use in prostitution of persons under 18 years of age;
- (e) implements certain other related reforms.

### **5 Definition of operator**

(1) In this Act, **operator**, in relation to a business of prostitution, means a person who, whether alone or with others, owns, operates, controls, or manages the business; and includes (without limitation) any person who—

- (a) is the director of a company that is an operator; or
- (b) determines—
  - (i) when or where an individual sex worker will work; or
  - (ii) the conditions in which sex workers in the business work; or
  - (iii) the amount of money, or proportion of an amount of money, that a sex worker receives as payment for prostitution; or
- (c) is a person who employs, supervises, or directs any person who does any of the things referred to in paragraph (b).

(2) Despite anything in subsection (1), a sex worker who works at a small owner-operated brothel is not an operator of that business of prostitution, and, for the purposes of this Act, a small owner-operated brothel does not have an operator.

### **9 Sex workers and clients must adopt safer sex practices**

(1) A person must not provide or receive commercial sexual services unless he or she has taken all reasonable steps to ensure a prophylactic sheath or other appropriate barrier is used if those services involve vaginal, anal, or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections.

(2) A person must not, for the purpose of providing or receiving commercial sexual services, state or imply that a medical examination of that person means that he or she is not infected, or likely to be infected, with a sexually transmissible infection.

(3) A person who provides or receives commercial sexual services must take all other reasonable steps to minimise the risk of acquiring or transmitting sexually transmissible infections.

(4) Every person who contravenes subsection (1), subsection (2), or subsection (3) commits an offence and is liable on conviction to a fine not exceeding \$2,000

#### **10 Application of Health and Safety in Employment Act 1992**

(1) A sex worker is at work for the purposes of the Health and Safety in Employment Act 1992 while providing commercial sexual services.

(2) However, nothing in this Act (including subsection (1)) limits that Act or any regulations or approved codes of practice under that Act.

#### **36 Disqualification from holding certificate**

(1) A person is disqualified from holding a certificate if he or she has been convicted at any time of any of the disqualifying offences set out in subsection (2), or has been convicted of an attempt to commit any such offence, of conspiring to commit any such offence, or of being an accessory after the fact to any such offence.

(2) The disqualifying offences are as follows:

(a) an offence under this Act (other than an offence under section 39(3), section 40(2), and section 41(3)):

(b) an offence under any of the following sections or Parts of the Crimes Act 1961 that is punishable by 2 or more years' imprisonment:

(i) section 98A (participation in an organised criminal group):

(ii) sections 127 to 144C (includes sexual crimes):

(iii) Part 8 (includes murder, manslaughter, assault, and abduction):

(iv) sections 234 to 244 (robbery, extortion, and burglary):

(v) section 257A (money laundering):

(c) an offence under the Arms Act 1983 that is punishable by imprisonment:

(d) in relation to the Misuse of Drugs Act 1975,—

(i) an offence under section 6 (other than possession of a Class C controlled drug):

(ii) an offence under section 9, section 12A, section 12AB, or section 12B:



(iii) an offence under any other section, but only if it relates to a Class A or a Class B controlled drug.

Section 36(2)(d)(ii): amended, on 22 June 2005, by section 23 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

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SUBMISSION No. ....

Online Submissions to Wellington City Council's Draft LAP

Submitters Name:	Contact Address:	Email Address:	Phone Numbers:	
Grace Welsh-Morris	135 Taranaki Street	gwelshmorris@gmail.com	272649794	I wish to discuss the main points of my submission at a hearing.

027 9647948.  
Bxd 1135  
8/12

<p>Do you think that a designated Entertainment Precinct with later hours than the rest of the City CBD:</p>			
<p>Do you think that the Council should designate a specific Entertainment Precinct with later hours than the rest of the City CBD?</p>	<p>No</p>		
<p>Is anti-competitive?</p>	<p>Yes</p>	<p>Will limit the evolution of the city's growth by limiting later trading to one designated area?</p>	<p>Yes</p>
<p>Will result in higher rents and increased costs for the bar / cafes / restaurants in the Entertainment Precinct?</p>	<p>Yes</p>	<p>Comments:</p>	<p>Comments:</p>

<p>The proposed trading hours in the Entertainment Precinct for On-licenses (bars, nightclubs restaurants) are 7am-3am (7am- 5am for best-practice premises). What do you think the latest trading hour in the Entertainment Precinct should be (if one is created)?</p>		<p>Outside of the Entertainment Precinct in the City CBD the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am-2am (7am-3am for best-practice premises). What do you think the latest trading hour in the City CBD should be?</p>	
<p><b>Response</b></p> <p>6:00:00 a.m.</p>	<p><b>Comments:</b></p> <p>The current closing times for bars on Courtney place allow for patrons to filter out and return home between the hours of 2am and 6am, this provides less stress for taxi drivers, less people on the roads and allows bars to monitor their patrons more closely</p>	<p><b>Response</b></p> <p>5:00:00 a.m.</p>	<p><b>Comments:</b></p>

	<p>In Suburban Centres the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am-midnight. What do you think the maximum trading hour in Suburban Centres should be?</p>	<p>The policy proposes a 'wind down hour' protocol for premises open after 2am, whereby the lighting is turned up, the music turned down, and during this last hour the premises is open you could not purchase a drink (this in effect results in a closing time of an hour earlier than the licensed hour for the premises). Do you think this should be compulsory for all premises that are open after 2am?</p>
<p>Response</p>	<p>Comments:</p>	<p>Response</p>
<p>3:00:00 a.m.</p>		<p>Comments:</p> <p>No</p> <p>As a late night bar worker, I do not see this procedure to cause anything but unhappy clients. As it stands, my place of work has a Close down procedure that is effective and ensures that our licensing policies are upheld</p>

The Council are proposing the following conditions could be imposed on a licensed premise. Do you agree? Please select Yes or No for each proposed condition.

A 'one way door' after a set time whereby no one else is allowed into the premises but those inside may remain	No	A limit on the number of drinks sold in any one transaction after a certain time	Yes	A minimum number of security staff set by the Council	Compulsorily dedicated staff to manage all queues	A minimum number of Duty Managers	Premises to pick up litter within a certain area	Security staff to wear High Viz Vests	No glass drinking vessels permitted in any outside area past a certain time	All outside temporary furniture to be removed after a certain time	No loudspeaker, amplifier, or other audio equipment outside the premises.	Compulsorily CCTV	Comments:
No	No	No	Yes	No	Yes	No	Yes	Yes	No	No	No	Yes	

Do you think the safety and vibrancy of the City Centre would be enhanced by the following?

Better public transport options at night	Yes	More lighting in the CBD	Yes	More CCTV cameras in public spaces	Yes	More street entertainment	Yes	More food trucks late at night	No	More enforcement of liquor bans	Yes	An instant fine for being intoxicated and/or being a nuisance in a public place	Yes	A trespass from the city centre for 90 days if caught being a nuisance	Yes	Greater Police presence	Yes	Comments:
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<p>The proposed trading hours for Off-premises (supermarkets and bottle stores) are 7am-9pm. What do you think the maximum trading hours for Off-premises should be?</p>		<p>Do you think that supermarkets should have the same trading hours as other Off-premise venues such as bottle stores?</p>	
<p>Response</p>	<p>Comments:</p>	<p>Response</p>	<p>Comments:</p>
<p>Midnight</p>		<p>Yes</p>	



Overall, do you agree with the direction of the draft Local Alcohol Policy?		
Response	Please give reasons:	Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?
Strongly Disagree	This is the wrong way to combat binge drinking. I am 23 years old and actually quite angry to think that the generations above me Cannot see the whole picture and are lobbying to pass these policy's which in fact is simply selfish.	

# HOW WE MANAGE ALCOHOL IN WELLINGTON SUBMISSION FORM

SUBMISSION No. **487**

I wish to discuss the main points in my written submission at a hearing, to be held in early August 2013 (note oral submissions are given five minutes for individuals and 10 minutes for organisations).

**I am completing this submission:**

On my own behalf       On behalf of a group or organisation

If you are representing a group or organisation, how many people do you represent? **35 EMPLOYEES.**

Your name **CLINTON DAN HEYER.**

Organisation name (if applicable) **GOOD LUCK + THE SAN FRANCISCO BATH HOUSE**

Organisation role (if applicable) **COMPANY DIRECTOR**

Contact address **PO BOX 9040 MARION SQ.  
WELLINGTON**

Post code **6001**

Phone number (day) **04 8016297**      Phone number (evening) **021 435851**

Email (if applicable) **clinton@sfbh.co.nz**

Signature 

Date **2 August 2013.**

**Privacy statement**

All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.



# DRAFT LOCAL ALCOHOL POLICY

## 1. Please indicate your level of satisfaction with the following provisions in the draft LAP.

\*If you disagree, please tell us what you would like the provision to be changed to.

### 1a. Under the proposed zone framework, late-night trading activity of bars and entertainment venues will be moved into a specific Entertainment Precinct to better manage the harm associated with trading at this time.

The proposed Entertainment Precinct boundaries are Courtenay Place (Kent Terrace) to Cuba Street (Abel Smith Street).

(section 9 of the draft LAP)

**Creating an Entertainment Precinct:** (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

IT IS ANTI-COMPETITIVE.

### 1b. The proposed risk-based management framework reviews the suitability of all elements of the activity in relation to its impacts on the community, and provides a risk classification.

This classification will influence the licence fees charged by the Council and the types of conditions that may be applied to the licence. The lower the risk, the lower the fees charged by the Council and the fewer restrictions applied to the licence.

(section 8 of the draft LAP)

**Risk-based management framework** (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

THIS IS CREATING ADDITIONAL COMPLIANCE IN AN AREA NOT PROVEN RESPONSIBLE FOR INCREASED HARM.

**1c. The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafés).**

**Entertainment Precinct**

7am–3am

7am–5am maximum for best-practice premises

**Central Area**

7am–2am

7am–3am maximum for best-practice premises

**Suburban Centre**

7am–midnight maximum

(section 9 of the draft LAP)

**Entertainment Precinct maximum trading-hour restrictions for on-licensed venues**

(please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Central Area maximum trading-hour restrictions for on-licensed venues** (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Suburban Centre maximum trading-hour restrictions for on-licensed venues** (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

*Further consultation required.*

1d. The proposed maximum trading-hour restrictions of 7am–9pm for off-licensed venues (supermarkets, grocery stores, bottle stores).

(section 9 of the draft LAP)

**Maximum trading-hour restrictions of 7am–9pm for off-licensed venues**

(please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

INHIBITING AN INDIVIDUALS  
RIGHT TO PURCHASE RESPONSIBLY.

1e. Supermarkets, grocery and bottle stores (all off-licence venues) should be treated the same despite the different range of products they sell.

- Supermarket and grocery stores can sell only beer and wine
- Bottle stores can sell beer, wine, spirits and RTDs (ready-to-drink mixes)

**Treating all off-licence venues the same** (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**Please give reasons:**

1f. The Council will look closely at applications for the sale and supply of alcohol at youth-focused occasions or events, or those likely to attract people under the legal purchase age of 18 years.

(section 9 of the draft LAP)

**Council focus on applications for youth-focused occasions or events** (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

**\* If you disagreed above, please give reasons**

I BELIEVE THAT SPECIAL LICENSE APPLICATIONS  
ARE ALREADY RESPONSIBLY STRUCTURED

1g. The policy identifies circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises.

(section 10 of the draft LAP)

The proposed circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

\* If you disagreed above, please give reasons

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1h. The proposed discretionary conditions that could be applied to a licence.

(section 11 of the draft LAP)

The proposed discretionary conditions (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

ALBANY COMPLIANCE COSTS  
ARE PROHIBITIVE.

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2. Overall, do you agree with the direction of the draft Local Alcohol Policy? (please tick one only)

Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

NOT ENOUGH EVIDENCE HAS BEEN  
GATHERED TO SUPPORT OR UNAN  
ASPECTS OF THE DRAFT LAP.

.....

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Please be as specific as possible to help us understand your views. It is helpful if you clearly state the page(s) and/or section number(s) of the draft LAP you are commenting on.)

3. What are the best aspects of the draft Local Alcohol Policy?

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4. What aspects of the draft Local Alcohol Policy do you think need to be changed?

PLEASE SEE ATTACHED.

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5. Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?

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# DRAFT ALCOHOL MANAGEMENT STRATEGY

6. The proposed goals in the draft Alcohol Management Strategy are achievable (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

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7. The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

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8. The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol (please tick one only)

- Strongly agree     Agree     Disagree     Strongly disagree     Don't know

Please give reasons:

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You may add more pages if you wish. **Thank you for your submission.**



You don't have to complete this section, but this information helps us to know who we are reaching. We use this for statistical purposes only. It will not be made publicly available.

**Your Gender**

Male  Female

**Your age**

Under 18 years  18–29 years  30–39 years  
 40–49 years  50–59 years  60 years and over

**Your ethnicity**

New Zealand European  Māori  Samoan  
 Cook Island  Tongan  Niuean  
 Indian  Chinese  Other

fold here first

**Fold, fasten and post this form to the Wellington City Council  
using the Freepost address below**

fold here second

Freepost Authority No 2199



PO Box 2199, Wellington 6140, New Zealand



Freepost 2199  
The Right Mix  
Wellington City Council  
PO Box 2199  
Wellington 6011

The Government has handed the responsibility of dealing with issues around alcoholic consumption nationally to TA's (Territorial Authorities). This is through a process of public consultation and evidence based reporting system, to create an LAP (Local Area Policy).

Through the process of engaging the public, two issues became clear as the main drivers of alcoholic harm in this country:

1. Pre-loading due to the lack of regulated minimum pricing at POS (Point Of Sale); and
2. Individual responsibility relating to the behavior of the public around the consumption of alcohol

There are no provisions in the guidelines of the new SOLA that allow TA's the opportunity to apply local policies to deal with these issues.

This sentiment has been confirmed by councilors: "as you can see, we are powerless and generally stuck in the middle when it comes to the real issues at play." (While he words are the authors, the sentiment has been expressed to the author by 3 councilors).

**The key points of this submission:**

1. There are 2 main drivers of alcohol related harm in New Zealand. These are:

A lack of a regulated minimum price of alcohol at POS, resulting in a propensity for at risk groups to engage in regular pre-loading; and

A lack of individual responsibility in regards to the social ramifications of intoxication

2. The LAP has been drafted under the premise that it is an evidence based document, however there is no significant evidence put forward that supports the notion that closing On Licenses earlier will reduce alcoholic harm
3. There is no evidence that supports an "entertainment prescient" as a viable solution to reduce alcoholic harm
4. There is no evidence that supports that it is economically sound to reduce the ability of Wellingtons Hospitality sector to trade, against the potential savings to society through a reduction of alcohol related harm, based on the amount of harm that On License trade is directly responsible for
5. There is no evidence to support the Potential Risk Factor Framework proposed as a basis for which to impose mandatory conditions on an On License, however there is evidence to the contrary

6. Restricting On License hours will not solve alcohol related harm, it will only shift the problem
7. We have more demand during times of peak density than the segment can currently cater to. This focuses large numbers of people on the street, inadvertently compounding issues
8. In light of the movements of the rest of the country, and the unique geographic and communal diversity of Wellington, Wellington should look to establish itself as a 24 hour city (as is the case with Melbourne branding for example) and take advantage of an opportunity to add more value to outside investment, including large scale events and conferences, by working directly with licensees and the wider community to contain the negative effects of alcoholic harm to the barest tolerable amounts, to benefit Wellington financially and to uphold a sense of civic pride
9. There are better solutions to reducing ARH in our community

### ***Main Drivers of Alcoholic Harm in New Zealand:***

#### **1. Pre-loading due to the lack of a regulated minimum price at POS in Off Licenses**

Minimum price is regulated within On Licenses by the cost of sales, staff and compliance.

On Licenses must adhere to a minimum price at POS for fear of being frowned upon by locally governing bodies. If On Licenses do not comply they risk losing their license upon renewal.

On License contributes approximately \$700 million per annum to New Zealand's economy and employs approximately 12,500 people.

Off License generates approximately \$780 million per annum to New Zealand's economy and employs approximately 2000 people.

Off License enjoys \$80 million more trade than On License, and employs 80% less people.

Much of this disparity can be attributed to a lack of compliance measures required at Off License, and that they own almost all of the market. (HANZ figures public submission)

Off Licenses have no regulations as to the price of alcoholic beverages at POS.

Off Licenses enjoy bulk-buying benefits, and segment their market position through pricing incentives.

Off License is therefore the default price setter for alcohol at POS in New Zealand.

The largest producer and wholesaler of alcoholic beverages in New Zealand has recently purchased one of the largest Off License chains in New Zealand, further reducing the minimum price that can be achieved at POS.

In recession and post recession economies, price at POS is the driving factor in influencing purchases, particularly in commodities and in areas such as food and beverage. New Zealand experienced the GFC in 2008 and again in 2010 (New Zealand Institute of Economic Research 2012 – New Zealand’s double dip recession)

***A lack of regulated price of alcohol at Off License POS negatively affects the vibrancy of a city over time:***

Lack of regulation for minimum pricing, means;

- Off License defines market value for alcohol
- On License must follow suite, lowers cost to match Off License
- Cost of compliance, excise tax plus rents reduce profit margins of operators On License
- Creation of entertainment zone raises rent in entertainment zone
- Good operators leave entertainment zone as cost of trade too high
- Booze barn style operators enter entertainment zone
- Booze barn style operators lower the standard,

enter into price wars,

city loses traction made with good operators,

***alcoholic harm increases***

At most significant risk, and heavily influenced by low pricing, is the 18 – 24 bracket, who have little money, and are experimenting with personal limitations, will take the cheapest and easiest available option to drink, socialize and interact with their peers.

“Overall, younger people are the most at-risk for acute ARH because they: tend to drink more alcohol and are less experienced with its effects;”  
(COVEC Costs and Benefits of CCC Draft LAP 2013)

This is creating a market that is coming into town significantly later, and considerably intoxicated. On Licenses are seeing increased staffing costs and decreased income in having to deal with pre-loaded public. The pre-loaded market is also not exclusively a young one. Management in my businesses are reporting increasing issues with pre loaded public in the age group 30 and up (male and female).

Increasing price of alcohol at Off License is a proven solution. Coate and Grossman (1988) reported that as alcohol excise taxes increased, youth drinking rates and deaths decreased.

“Acute ARH (Alcoholic Related Harm) is largely a result of our deeply entrenched binge drinking culture, which has been exacerbated by a growing gap between the prices of alcohol sold at off-license and on-license premises. The resulting price differential has fostered a pervasive culture of pre-loading, in which cheaper off-license alcohol is consumed (often quickly) before going out.” (COVEC 2013)

## **2. There is no provision to deal with the lack of individual responsibility in regards to offences relating to intoxication**

New Zealand has been relatively slow to adopt an attitude of self-responsibility.

In the case of alcohol we still place the blame with businesses, and individuals who work in those businesses, and not with the individuals at fault.

75% of the alcohol purchased and consumed in this country is through Off Licenses and is consumed in non-licensed public spaces, or unregulated non-monitored private residence.

Regulating On License through compliance and fines does nothing to address the lack of individual responsibility around alcoholic consumption. Addressing On License consumption is addressing the smallest segment of the societal issue at large.

Countries with high levels of individual responsibility around societal attitudes to intoxication enjoy mitigated alcohol related harm. (Multiple EU Reports – Alcoholic Related Harm 1990 - 2013)

Focusing on individual responsibility could yield the greatest results in reduction of alcohol related harm and crime.

I suggest we look at the legal option of by-laws and adopt a process similar to the one that the Police have been so successful with in regards to Breach of Liquor Ban. The Police managed a staggering 962 recorded breeches for the 2 years 1/1/2010 to 31/12/2011. People in Wellington are now acutely aware that we operate a Liquor Ban.

**The LAP has been drafted under the premise that it is an evidence based document, however there is no significant evidence put forward that supports the notion that closing On Licenses earlier will reduce alcoholic harm**

The Wellington LAP has been drafted with some incidences of conclusions drawn from evidence which may be inaccurate, or where disparate comparisons have been drawn for lack of locally applicable examples.

*"Similarly, there are nationally and internationally recognized difficulties in establishing a direct causal relationship between alcohol consumption and alcohol related harm/social benefits to adequately model the impact of proposed changes."*

Jamie Dyhrberg Wellington City Council, in an email response in regards to a request for a cost benefit analysis in regards to the WCC draft LAP, July 2013.

Not until very recently have studies been addressing the balances that Jamie refers to – and these studies admit to falling short.

### 1. The Newcastle Report

A comprehensive study was carried out in Australia, between Hamilton and Newcastle. The evidence was disparaging in regards to the study outcomes and stated that Police statistics being used to convince the public that this system works were in fact inflated. This report established that "Fewer than 10% of assaults occur on licensed premises."

The report established that the reduction in crime statistics is weighted, and not indicative of the one-way door system. It concluded that increased Police presence, and over zealous enforcement at the time that information was being collected, resulted in a reduction of crime statistics, not the one-way door system. It also concluded that increased responsibility by bar owners made a significant difference.

***"Effects of restricting pub closing times on night-time assaults in an Australian city:"***

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3041930/>

"If, as a consequence of the intervention, more police were temporarily put onto the street in the CBD and/or they became more zealous than usual in apprehending people for assault, the detection rate may have been inflated artificially. This will have resulted in underestimation of the intervention effect."

"At the time of the intervention, pubs were subject to adverse publicity from media reports in March 2008 of a 'top 100 list' obtained from the NSW Bureau of Crime Statistics and Research. ***It is likely that as a consequence of the publicity, pubs modified their service and security practices and this may have reduced assault rates independently of the restriction in closing times.***"

"By restricting closing times, the intervention may have reduced the number of people coming into the CBD and thereby reduced the likelihood of aggressive interactions between patrons within, outside and travelling between licensed premises."

"...further research is required to examine the effects of lockouts. These are now used widely but there is little or no evidence concerning their effectiveness."

## 2. Liang and Chikritzhs (2011) Study in Perth

Conclusions drawn for the WCC draft LAP:

That numbers of On Licenses significantly predicted violence with the exception of assaults occurring at residential premises.

Actual results of study:

"Average alcohol sales volume per Off-Site outlet (Off License) was significantly associated with all measures of assault. Numbers of On-Site (On License) significantly predicted violence with the exception of assaults occurring at residential premises. Alcohol sales from Off-Site (Off Licenses) predicted violence occurring at on-site outlets."

The on site outlets were not causing the incidences of violence, pre loading was.

Further conclusions were;

"That the link between on-site outlets and violence may be primarily underpinned by negative amenity effects while off site outlet effects occur via increased availability. Alcohol sales from off-site outlets influence levels of violence, which occur at both licensed and residential settings. The substantial and wide-ranging effects of liquor stores on alcohol related harms may have been underestimated in the literature and by policy makers."

<http://onlinelibrary.wiley.com/doi/10.1111/j.1465-3362.2010.00281.x/abstract>

## 3. Further information/studies used:

The highest percentage of criminal activity is dishonesties (55% - Police Presentation Attached).

However, this was identified as being due to bar managers being unaware or unable to hand in lost items to Police Central, in particular, The Establishment on Courtney Place. Police identified a high number of thefts occurring on or around the corner of Blair St and Courtney Place, after midnight, in particular on weekends. One trip to The Establishment and a very large percentage of the mystery was cleared up. (Capital Host meeting, Wellington)

Australian Statistics indicate 10% of violent assault's occurring around licensed premises involve intoxicated patrons refused entry a third of the time and focused around areas typically high in narcotic supply gang wars, in areas of significant populace density incomparable to Wellington.

Wellingtons violent assaults statistics around licensed premises are not this high.

Assaults overseas are classified as both verbal and physical, [http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll\\_bocsar.nsf/vwFiles/ab02.pdf/\\$file/ab02.pdf](http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/ab02.pdf/$file/ab02.pdf)

and the highest amount of assault recorded on licensed premises (even in high problem density outlets) is listed as 'verbal assaults.'

[http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll\\_bocsar.nsf/vwFiles/cjb147.pdf/\\$file/cjb147.pdf](http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/cjb147.pdf/$file/cjb147.pdf)

In a KPMG produced study focusing on Melbourne, illicit drug use was found to be an equal contributor in violent incidents:

"stakeholders (including licensees, security industry, Police and patrons) also indicated that illicit drug use was a factor in violent incidents."

[http://www.vcglr.vic.gov.au/resources/68c25687-41ba-4c4a-91a6-e7620fc003d6/evaluation\\_temporarylatenightentrydeclaration\\_finalreport.pdf](http://www.vcglr.vic.gov.au/resources/68c25687-41ba-4c4a-91a6-e7620fc003d6/evaluation_temporarylatenightentrydeclaration_finalreport.pdf)

Homel and Clark (1994) conducted an observational study of licensed premises in Sydney which examined incidents of violence both within a sub-sample of 11 licensed premises previously identified as high risk for violence and a random sample of 25 premises from 17 different areas of Sydney. Observations were made across 45 sites within these 36 premises (some premises had several bars or entertainment areas which permitted drinking) and occurred predominantly after 8pm. One hundred and two aggressive incidents were recorded in the 300 hours of observation, though only 29 of these actually involved physical aggression.

Importantly, however, Homel and Clark (1994) found that over three quarters of the incidents involving physical aggression were concentrated in less than one-fifth of the sites, and that two-thirds of the sites had no violent incidents reported at all.

Sydney has over 6 million residents. Predominant drug use is a major source of crime. Gang wars ensue.

Australia has been identified as having a significant binge drinking culture, with higher rates of pay, more free time, and cheaper, more readily available amounts of alcohol than New Zealand.

Sydney and Wellington are hardly comparable.

Many of the studies referenced in submitted reports are now considered outdated, and failed to recognize the impact of low pricing at Off License and equivalent. Not only have these submissions been misleading in their evidence, but the stance of the current LAP is to sacrifice the compliant majority for the problematic few. Our stance moving forward must be to address the problems associated with problem sites, on a systematic basis.



It appears that this mis-information has influenced policy contained within the draft of Wellingtons LAP.

Most studies focus on availability as an indicator of potential harm, however all previous studies to Liang and Chikritzhs do not make a differentiation between On and Off License (site) supply. This is significant, as much has been made of the harm associated with licenses, however there has been little differentiation made between On and Off Licenses (or international equivalent).

“These and other Australia studies examining crime on or linked to individual alcohol outlets (such as Briscoe & Donnelly, 2003; Homel, Carvolth, Hauritz, McIlwain, & Teague, 2004; Homel and Clark, 1994; Homel, McIlwain & Carvolth, 2001) are valuable in highlighting the contribution of licensed premises to alcohol-related violence, but they do not tell us what proportion of assaults are more likely to occur around licensed premises than around other types of premises. Likewise, they do not provide information on the size of the change in assault numbers that might result from each additional alcohol outlet established in an area (Scribner, Cohan, Kaplan, & Allen, 1999).

### **There is no evidence that supports an “entertainment prescient” as a viable solution to reduce alcoholic harm**

There is the potential for unforeseen consequences in instigating an Entertainment Prescient.

One such consequence is creating an anti competitive trade corridor.

Courtney Place rents are already exceeding \$700 psm per annum, and this is starting to squeeze good operators out of the area.

While a city must manage growth, a city must also foster innovation. Restricting the licensing times around an entertainment prescient will stifle the ability of the city to produce future entertainment areas – clusters of culture which define a city for visitors and residents alike.

Wellington needs to support these operators – they are the most experienced and best at what they do, Wellington needs to incentivize these operators in the current roles and sites they are fulfilling.

Wellington benefits from innovation from the private sector – Peter Jackson, Shihad, Flight of The Conchords, Xero, The Matterhorn. These innovations can define Wellington, and innovators need more than an entertainment corridor to grow from.

Furthermore, an entertainment prescient represents an opportunity loss to secure more numerous safe pockets in the inner city.

Currently the private sector spends approx. \$40,000 a night on Fridays and Saturdays providing security staff to manage the public from the Kent Tce to Vivian St.

Wellington is currently struggling to fulfill public demand for bars and nightclubs at peak density times. By limiting the areas that these businesses can operate, we limit private sector growth and innovation, and the city misses out of safety, culture and local pride. The brand Wellington is at significant risk.

**There is no evidence that supports that it is economically sound to reduce the ability of Wellingtons Hospitality sector to trade, against the potential savings to society through a reduction of alcohol related harm, based on the amount of harm that On License trade is directly responsible for**

The Wellington City Council has declined to enter into a Cost and Benefit Analysis in regards to the Wellington LAP, for reasons previously outlined by Jamie Dhyrburg.

In absence of a specific analysis for Wellington, I will refer to the Christchurch COVEC Report. Wellington City Council has also referenced a significant body of data that relates to the amount of income that is generated through events and the hospitality sector.

COVEC (2013) found, in an Analysis of Costs and Benefits relating to Christchurch, the following:

“To analyze potential costs and benefits, we adopted a comprehensive analytical framework recently designed by the European Union to provide a standardized method for measuring the effects of alcohol related policies.

Overall, our analysis suggests that economic costs will outweigh benefits because:

While international literature has shown that reductions in opening hours can help reduce ARH, reductions in consumption caused by the LAP will be minor and hence so too will any reductions in ARH. As a result, policy benefits will be minor.

At the same time, the policy could have a number of unintended consequences, including undermining the viability of rebuilding licensed premises in the CBD.

In addition, it will impose additional costs on many licensed premises, and unduly disadvantage a number of very low risk premises, such as wineries.

The key issue is that – while very difficult to do within the ambit of a LAP – the policy fails to address the key drivers to acute harm, namely our binge drinking culture coupled with a tendency to pre load.

Further, the policy appears too course, and may not adequately reflect the relative harm caused by different types of licensed premises. A more fine-grained approach should be considered.

A significant amount of ARH occurs in the home, and the policy is unlikely to provide much assistance with this. Conversely, regulating the density of outlets in certain areas may have positive effects, but these have not been included. There is no evidence to support or oppose the proposed off-license restrictions. Further, council does not appear to have a strong community mandate for reducing the hours that alcohol can be sold at certain off-licenses, such as supermarkets.

Because the policy does not (and essentially cannot) target problem drinkers, it is fairly blunt and therefore has the potential to negatively impact a number of law abiding citizens.”

**There is no evidence to support the Potential Risk Factor Framework proposed as a basis for which to impose mandatory conditions on an On License, however there is evidence to the contrary**

Wellington Licensees support the reduction of crime in inner cities. However, Wellington Licensees seek to find proven alternatives that work over long time periods, rather than automatic compliance measure such as one-way door systems and wind down periods.

Some reasons against the use of a one-way door system/wind down period include:

- They have not been proven to work – the statistics have been weighted in favor of the system without considering the environmental factors that are actually at work.
- It is a restriction to the public's freedom to choose
- It is a restriction that adversely affects night and shift workers, they should not lose their right to drink, be entertained, and to be able to choose how to socialize
- It is a band-aid solution, and passes responsibility over to on licenses, when on licenses are not actually at fault
- The major issue is pre-loading. This is not the fault of on licenses, and is an issue that on licenses are heavily incentivized to pro-actively engage in, in order to work towards, and find solutions for. One way door systems will not stop pre-loading
- This is a system, which hands on responsibilities of other public bodies directly onto private on licensed premises. The assumption is that on licenses can financially afford to take the fall. This is a process of passing the problem on, and not actually addressing the real issue: Our societal attitudes towards intoxication

- Wind down periods are anti-competitive and represent an hours less trading in reality
- All liquor licenses currently have a wind down period – and they work very well as they stand

***“One Way Door” remains open***

<http://m.alac.org.nz/blog/one-way-door-remains-open>

“The Police have been fantastic, and put a lot of energy into supporting the policy. Statistics for breaches of the liquor ban and disorder offences went through the roof over that trial period, and that was purely the result of increased police presence.”

“The goal of 10 per cent reduction in alcohol related crime and violence...was not met. In fact, there was a 75% increase in total offences during that time over the same period a year earlier.”

Christchurch Central Area Police Commander Inspector Gary Knowles affirmed that any success in the reduction of offences was due to “...partnerships that have formed between licensees and agencies...”

It was also noted that “involving licensees earlier would have benefited the project.”

The times of this initiative need to be factored in also. “Crime starts to tail off the later in the morning you go.” This would support a gradual movement, and the current status of Wellingtons licensed hours, in brief, that the more staggered a city’s closing times the less crime licensed premises contribute.

“There are a number of influences that need to be turned around to help create a better perception in the city. One is to get people in town earlier. Currently they are not coming into the central city until 12.30am, after already consuming three quarters of the alcohol they will drink during the night, bought cheaply at off-licenses.”

CCTV as a mandatory requirement

While I support CCTV and use CCTV in all of my premises, it is important to recognize that this inclusion is purely from a Police motivated standpoint.

The Police have the following position on CCTV:

“Situational Crime Prevention Responses.  
CCTV cameras (location and number)

6.1 The primary objectives of requiring the instillation of CCTV in licensed premises would be to:

- To seek to influence the behavior of patrons

- To protect staff and property
- Where necessary, to provide unequivocal evidence of an incident to assist subsequent prosecution

6.2 This has been used as a condition for the issuing of some licenses for problem premises in England and Australia during recent times and there is the public perception of enhanced security, providing increased personal and property protection.

6.3 It does appear however that no substantive research has been undertaken to indicate whether, in fact, CCTV systems produce this result (Legislative Assembly for ACT). Even in the United Kingdom, where CCTV systems have been used for a number of years, very few studies have been undertaken. In one, which examined public attitudes towards the use of CCTV, the authors concluded that while the majority of people surveyed reacted positively to the use of CCTV and assumed it to be effective in crime control, this acceptance was based on "limited and partly inaccurate knowledge of the functions and capabilities of CCTV systems in public places (Honest and Charman 1992).

However – this is being put forward as a potential mandatory requirement of a liquor license – an untested theory, because;

6.4 There is no doubt however that effective CCTV would be an invaluable aid to Police in investigating any crimes in licensed premises.

The number of crimes actually recorded and occurring on licensed premises is extremely low.

CCTV at an entry level costs a minimum of \$10,000.

For this price you would enjoy perhaps 4 cameras of a very low quality (less mega-pixels than an iPhone camera) with a computer that would be capable of storing that data for 5 – 7 days at the most.

Usually response to On License crimes is approx. 3 – 4 weeks.

For a system that stores this kind of volume of data, at a number and capability that is legible and useable, the operator will have to spend approx. 30 – 35k.

This is a huge capital expenditure for the private sector to bill based on a theory, and represents a large barrier to trade. Most operators install CCTV eventually (usually to monitor the behavior of staff), but there is no evidence that it should be a mandatory requirement to reduce alcohol related harm.

**Restricting On License hours will not solve alcohol related harm, it will only shift the problem; and**

**We have more demand during times of peak density than the segment can currently cater to. This focuses large numbers of people on the street, inadvertently compounding issues**

When a country has a segment that has an issue with alcoholic related harm through binge drinking and lack of sense of social responsibility, it is not the time of the day or night that influences the drinking - it is the reason or excuse to drink.

Wellington experiences this first hand during Sevens or Homegrown. The whole inner city becomes an entertainment zone, and it does so during the day.

Wellington experiences a whole weekend of the effects of alcohol related harm during broad daylight every year in February during the Sevens. Wellington city witnesses how pre-loading works standing outside bottle stores as one young person with ID buys cases of RTDs and hands them to underage friends waiting outside. The drinks are consumed on their way to the event – often consumed rapidly. Then it is the responsibility of Homegrown organizers to look after and treat pre-loaders, at their expense.

This is what On Licenses deal with every week. Late trade on licenses regularly deal with queues of more people outside than in. Peak demand is greater than the hospitality sector can cope with, and this also extends to cafes on the weekend and restaurants in the evening. The best operators are in the unfortunate situation of having to turn business away at peak times.

We have a situation as an industry where we need to free up the compliance and cost of trade to allow for more variation at peak times. Issues around Courtney Place are fueled by frustration of people unable to get into licensed premises.

This is not a market creating exclusive demand for bars and nightclubs, this is a market following whatever event provides the excuse to eat, drink and be merry, and who are heading to hospitality outlets en masse at peak times.

Police data confirms the above:

Premises contributing to the most harm (Police ALCOlink Data):

Top Spot – Westpac Trust Stadium. Capacity of 34,500.

Over 2 years (1/1/2010 to 31/12/2011) 124 offences recorded involving alcohol, involving 117 individuals (some individuals tracked multiple offences).

114 were Males, and 10 were Females.

Out of these numbers, 39 were considered slight intoxication, 66 were considered moderate intoxication and 12 were considered extremely intoxicated.

This site, and the 4<sup>th</sup> highest ranked in alcohol related offences in Wellington, were both sites where the principle business reason was not the sale and supply of alcohol.

Rather, these were what may be considered low risk sites, or entertainment sites, which in the draft LAP are seen as desirable, less risk, and worthy of enjoyment of extended hours.

The times that offences were being recorded at Westpac Stadium are significant:

Offences recorded at The Stadium by time (over 2 years):

1am to 2am:	5 offences
12 (00:00) midnight to 1am:	5 offences
11pm to 12 (00:00) midnight:	8 offences
10pm to 11pm:	28 offences
9pm to 10pm:	38 offences
midday (lunchtime) to 9pm:	58 offences

The vast majority (over 90%) occur between midday and 11pm.

The Stadium recorded 124 offences over 2 years.

The top ten sites in Wellington together clocked in a total 478 offences, 239 per year, or 4.59 per week.

Other bars (late night) behaved accordingly – the majority of offences recorded late at night/early morning, a lot of disorderly offences, a lot of drink driving offences.

Peak density demand equals predictable peak density problems.

The Stadium has a peak demand during the day, and recorded the majority of offences during the day.

NZ has a nighttime drinking habit, and the majority of offences are recorded at night. Restricting opening hours is not a viable solution to offences involving alcohol, anytime we have a day event at The Stadium alcohol related offences peak. If we shift market demand opening hours earlier, we will simply shift the peak density offences earlier. This does not reduce harm.

New Zealand's peak drinking times are not exclusively focused on On License:

"Drunk home custody begins to increase at 8pm and peaks between 11pm and 1am. Forty per cent of calls for services related to drunk home custody occurs from Thursday to Sunday between 10pm and 5am. The numbers increase from Monday to Saturday but decrease between Saturday and Sunday. Saturday (23%) and Sunday (19%) account for the largest proportions of calls for services related to drunk home custody. The highest number of calls for drunk home custodies occur between 12am and 1am on Sunday mornings."

“Licensed premises visits begin to increase at 10pm and peak between 11pm and 12am. Fifty five per cent of license premises visits are carried out between Thursday to Sunday between 10pm and 5am. The numbers increase from Monday to Saturday but fall between Saturday and Sunday. Friday (29%) and Saturday (34%) account for the largest numbers of Police licensed premises visits. The highest number of Police visits occur between 11pm and 12am on Friday nights.”

“Alcohol related ED presentations increase steadily from 7pm to 11pm and then increase sharply at 11pm peaking at 1am to 2am. Thirty eight per cent of alcohol related ED presentations occur from Thursday to Sunday between 10pm and 5am. The numbers increase from Monday to Sunday. Saturday (23%) and Sunday (25%) account for the largest proportions of alcohol related ED presentations.”

Peak Risk Times: All Alcohol Related Offences in New Zealand:

“...the peak in alcohol related offences occur between 12am and 1am for the three financial years analyzed. Alcohol related offences grow consistently as the time of day gets later, and peaks between 12am and 1am. Fifty seven per cent of alcohol related offences occur between 10pm and 5am.”

Quotes courtesy of ‘Risk Based Licensing Report.’ MOJ, December 2012

Police recorded SOLA Offences for Wellington City:

2007/2008: 7  
2008/2009: 6  
2009/2010: 23  
2010/2011: 34  
2011/2012: 27

Police recorded SOLA Offences, same year periods, midnight to 3am:

2007/2008: 1  
2008/2009: 2  
2009/2010: 1  
2010/2011: 7  
2011/2012: 1

Police recorded SOLA Offences, same year periods, midday to midnight:

2007/2008: 1  
2008/2009: 4  
2009/2010: 21  
2010/2011: 27  
2011/2012: 26



“...there were a total of 2153 enforcements against licensees and manager certificates that in the financial years 2009/2010, 2010/2011, 2011/2012. Of these, 63% were associated with licensed premises. Thirty one per cent were associated with an on-licensed premises, 30% were associated with off-licensed premises, 2% were associated with club licensed premises, 27% were specific to an individual, 6% were related to unnamed premises and 4% were related to managers certificates which we could not identify as related to an offence associated to a licensed premises, or to the individual.”

Off Licensed Enforcements numbered 647. On License Enforcements numbered 666. In Wellington, there is 154 Off Licenses, and 498 On Licenses. Off License Enforcements outnumber On License Enforcements 3 to one, based on the density of outlets.

Peaking past 10pm means that restricted hours do nothing to curb alcohol related harm. We must focus on the main drivers (pre-loading and individual responsibility).

**In light of the movements of the rest of the country, and the unique geographic and communal diversity of Wellington, Wellington should look to establish itself as a 24 hour city (as is the case with Melbourne branding for example) and take advantage of an opportunity to add more value to outside investment, including large scale events and conferences, by working directly with licensees and the wider community to contain the negative effects of alcoholic harm to the barest tolerable amounts, to benefit Wellington financially and to uphold a sense of civic pride**

The opportunity of a LAP gives Wellington the chance to segment itself from the trading hours of the rest of the country.

We have an opportunity to look at what we have in play, and what resources we have as a licensed community, and put together initiatives which will allow us the competitive advantage over Auckland and Christchurch. Wellington needs to invest less compliance on to On License, and continue open forums for solutions through communication to make us more innovative in the field of hospitality.

Operators in Wellington need the financial opportunity to re-invest in Wellington. We need to attract large, and small-scale events. Local economies are effectively delicate organisms, large scale attacks such as is proposed in the draft LAP can destroy the critical balance of growth that Wellington the brand benefits from.

Wellington has a small number of easily accessible seasoned operators who take massive financial risks, and work incredibly hard to build on the city's reputation as a hospitality hot spot. Operators need the support of council at a policy level in order to continue to build on the excellent foundations we have laid down. There is significant evidence that you have received already and will receive as part of the process of public submission that prove this.

We face a significant risk of Earthquake and the crippling side effects that property owners are currently grappling with. We also face the risk of an impending energy crisis, arguably it is already upon us.

By making drastic changes to our hospitality sector we risk losing more valuable income than the city can potentially cope with. We must attract the best entertainment, staff and investment to remain a vibrant city – the coolest little capital of the world.

### **There are better solutions to reducing ARH in our community**

Ministry Of health produced statistics during submissions that proved that we could now target a segment of New Zealanders who have the majority of drinking problems – Male, 15 – 29 in lower socio-economical backgrounds.

92.0% of drinkers had consumed alcohol in their own home in the last 12 months and 84.8% had consumed alcohol at someone else's home.

Nightclubs (most significantly effected by Draft LAP) represented only 24.2% of alcohol consumed in the last 12 months throughout New Zealand

The most common location for drinking large amounts of alcohol were private homes. Overall 47.2% of drinkers who had consumed large amounts of alcohol in the last 12 months had done so in their own home, while 41.5% of drinkers had consumed large amounts of alcohol in someone else's home. Overall, 16.4% of drinkers had consumed large amounts of alcohol at pubs, hotels and/or taverns in the last 12 months.

Males are more likely to consume large amounts of alcohol (this provides us with a group to focus on)

Among youth drinkers, 62.5% had someone else purchase alcohol for them.

Overall, 95.9% of youth drinkers who had tried to purchase alcohol to take away in the last 12 months were successful at least once. This includes buying alcohol to take away from wine shops, wholesalers, hotel or tavern bottle stores, supermarkets, superettes, dairies, sports clubs and other places.

MOH Alcohol use in New Zealand 2004 (~~attached~~)

Furthermore, New Zealanders are drinking less, and drinking better.

Wellingtonians love to dine and socialize.

The hospitality sector has been recognized by the public as remarkable, and the market is indicating this by queuing on cold windy streets for hours to get into bars and nightclubs.

Current strategies to reduce alcohol related harm in this country are working. Perhaps they are not working fast enough, but Wellington has some positive mechanisms in place to mitigate that faster than anywhere else in the country.

We are smaller, we are geographically compact, and we all know each other. We are in a unique position to hold ourselves all personally accountable for the benefit of the city that we choose to invest our time, money and resources in.

When we target a segment, or an issue, we see the direct results of that targeted focus. Wellington has Capital Host, an open forum that encourages stakeholders in alcohol to meet in open discussion with the intent of finding workable solutions. There is no tool of policy that can trump open communication; after all, it is communities that solve crime – not policies.

By focusing on pre-loading and societal responsibility we have an opportunity to address alcoholic harm head on, however, we need a successful On License sector to be able to best facilitate this.

By Laws may be adjusted to begin to address personal responsibility. Regulated pricing can address pre loading. Wellington city has great minds that can create effective solutions to the real issues at play. The consultation process has had an overwhelming victory as Wellington has identified pre-loading and personal responsibility as the real perpetrators in ARH.

However, increasing compliance and restricting On License trading hours is the wrong direction, at the wrong time, to be taking as a city.

There is no evidence that has been gathered in the process of consultation that suggests that further increasing a stranglehold of compliance on licensees will benefit any of the issues we have identified as being pertinent to Wellington City.

Clinton den Heyer  
July/August 2013

FILED IN

SUBMISSION No. 1845

**Wellington City Council - Draft Local Alcohol Policy  
Submission**

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**Your submission on the draft Policy is needed by the Council by 5pm on 2 August 2013**

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**INTRODUCTION**

The Sale and Supply of Alcohol Act 2012 allows Councils to introduce Local Alcohol Policies which can impact on the trading hours, location, density and operation of licensed premises. Submissions are now invited on the Wellington City Council's draft Local Alcohol Policy.

This is an important issue for the Wellington Hospitality Industry which is a major contributor to the region's economy, bringing in \$700 million annually and helping create the 'Coolest Little Capital' vibe. A Research NZ survey conducted in Wellington in May 2013 found that 87% of respondents agreed with the current hours the city is open. 90% agreed that the hospitality and entertainment scene is dynamic, vibrant and helps define the city's character.

In Wellington the late night economy is significant with \$41 million spent annually in the city on hospitality between the hours of 4am and 7am. This equates to an estimated \$11 million of wages paid to hospitality workers during those hours.

The Research NZ survey found that 72% of respondents drank before coming into town. We know that 75 % of all alcohol sold in NZ is sold off-premise (supermarkets and bottle stores) and only 25% of all alcohol in NZ is sold on-premise (bars, restaurants, night clubs, hotels). Police and Health authorities agree that the major contributor to alcohol related harm is the pre-loading of alcohol before people come out. Police also agree that the vast majority of bars in Wellington are well run and that the issues that do occur are generally related to people attracted to the area and not to the bars themselves.

We believe the safest place for people to consume alcohol and be entertained is on licensed premises, which have strict host responsibilities, trained staff and are heavily regulated and monitored. Imposing greater restrictions on the hospitality industry is unlikely to change the issue of personal responsibility. In fact it may drive consumption increasingly to uncontrolled environments.

The following short survey seeks your opinions on a number of proposals in the draft Local Alcohol Policy and your response will be submitted in your name to the Council as a formal submission on that policy.

## QUESTIONS

Under the zones proposed in the draft policy there will be an Entertainment Precinct – encompassing Courtenay Place and Cuba Street from Kent Terrace up to Abel Smith Street, (see map below)

- Bars in this precinct can trade to 3am (or to 5am for 'best practice' premises)
- Bars elsewhere in the City CBD can trade to 2am (or to 3am for 'best practice' premises)



Question 1: Do you think that the Council should designate a specific Entertainment Precinct with later hours than the rest of the City CBD? YES

NO

Question 2: Do you think that a designated Entertainment Precinct with later hours than the rest of the City CBD:

a. Is anti-competitive?

YES

NO

b. Will limit the evolution of the city's growth by limiting later trading to one designated area?

YES

NO

c. Will result in higher rents and increased costs for the bar / cafes / restaurants in the Entertainment Precinct?

YES

NO

Comments:

I ALSO THINK IT WILL STRANGLE THE INDUSTRY, AND  
 PUSH OPERATORS INTO OTHER  
 AREAS AS IT WILL CAUSE RIDICULOUS  
 RENT HIKES: THIS PRECINCT WILL CREATE  
 MORE PROBLEMS FOR WELLINGTON THAN IT WILL  
 SOLVE + NEEDS MORE PUBLIC CONSULTATION.

The proposed trading hours in the Entertainment Precinct for On-licenses (bars, nightclubs restaurants) are 7am–3am (7am- 5am for best-practice premises).

**Question 3: What do you think the latest trading hour in the Entertainment Precinct should be (if one is created)?**

Entertainment Precinct preferred maximum trading hour (please tick one only)

3am	4am	5am	6am	Other (please comment)
				open to whatever hour

Comments:

IS MOST APPLICABLE  
TO PUBLIC OWNED

Outside of the Entertainment Precinct in the City CBD the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am–2am (7am-3am for best-practice premises).

**Question 4: What do you think the latest trading hour in the City CBD should be?**

City CBD preferred maximum trading hour (please tick one only)

2am	3am	4am	5am	Other (please comment)
				open to market

Comments:

DEMAND.

In Suburban centres the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am–midnight.

**Question 5: What do you think the maximum trading hour in Suburban Centres should be?**

Suburban centres preferred maximum trading hour (please tick one only)

Midnight	1am	2am	3am	Other (please comment)
				open to market

Comments:

Demand.

The policy proposes a 'wind down hour' protocol for premises open after 2am, whereby the lighting is turned up, the music turned down, and during this last hour the premises is open you could not purchase a drink (this in effect results in a closing time of an hour earlier than the licensed hour for the premises).

**Question 6: Do you think this should be compulsory for all premises that are open after 2am?**

YES

NO

Comments:

A WIND DOWN PERIOD IS ANTI-COMPETITIVE.  
IT SOLVES NOTHING.  
IT IS AN ADDITIONAL BURDEN OF COMPLIANCE TO  
AN ALREADY HEAVILY REGULATED INDUSTRY SECTOR.

**Question 7: The Council are proposing the following conditions could be imposed on a licensed premise.**  
**Do you agree?** Please circle Yes or No for each proposed condition.

a. A 'one way door' after a set time whereby no one else is allowed into the premises but those inside may remain - <i>FROM INTERSECTION.</i>	YES	<input checked="" type="radio"/> NO
b. A limit on the number of drinks sold in any one transaction after a certain time	YES	<input checked="" type="radio"/> NO
c. A minimum number of security staff set by the Council <i>NO - ALL SIGNS ARE DIFFERENT.</i>	YES	<input checked="" type="radio"/> NO
d. Compulsory dedicated staff to manage all queues <i>WHY?</i>	YES	<input checked="" type="radio"/> NO
e. A minimum number of Duty Managers	<input checked="" type="radio"/> YES	NO
f. Premises to pick up litter within a certain area <i>WHY?</i>	YES	<input checked="" type="radio"/> NO
g. Security staff to wear High Viz Vests <i>NOT PROVEN.</i>	YES	<input checked="" type="radio"/> NO
h. No glass drinking vessels permitted in any outside area past a certain time	<input checked="" type="radio"/> YES	NO
i. All outside temporary furniture to be removed after a certain time <i>WHY?</i>	YES	<input checked="" type="radio"/> NO
j. No loudspeaker, amplifier, or other audio equipment outside the premises <i>WHY?</i>	YES	<input checked="" type="radio"/> NO
k. Compulsory CCTV	<input checked="" type="radio"/> YES	NO

Comments:

**Question 8: Do you think the safety and vibrancy of the City Centre would be enhanced by the following?**  
Please circle Yes or No for each suggestion.

a. Better public transport options at night	<input checked="" type="radio"/> YES	NO
b. More lighting in the CBD	<input checked="" type="radio"/> YES	NO
c. More CCTV cameras in public spaces	<input checked="" type="radio"/> YES	NO
d. More street entertainment	<input checked="" type="radio"/> YES	NO
e. More food trucks late at night	<input checked="" type="radio"/> YES	NO
f. A chill out zone with water, food, transport information, medical assistance	<input checked="" type="radio"/> YES	NO
g. More enforcement of liquor bans	<input checked="" type="radio"/> YES	NO
h. An instant fine for being intoxicated and/or being a nuisance in a public place	<input checked="" type="radio"/> YES	NO
i. A trespass from the city centre for 90 days if caught intoxicated/being a nuisance	<input checked="" type="radio"/> YES	NO
j. Greater Police presence	<input checked="" type="radio"/> YES	NO

Comments:

The proposed trading hours for Off-premises (supermarkets and bottle stores) are 7am-9pm.

**Question 9: What do you think the maximum trading hours for Off-premises should be?**

Maximum trading hours for Off-premises

9pm	10pm	11pm	Midnight	Other (please comment)
				MARKET SHOULD.

Comments:

LIMITED AVAILABILITY DOES NOT SOLVE THE PROBLEM

**Question 10: Do you think that supermarkets should have the same trading hours as other Off-premise venues such as bottle stores?**

YES

NO

Comments:

**Question 11: Overall, do you agree with the direction of the draft Local Alcohol Policy ?**

*Please tick one only.*

Strongly agree	Agree	Disagree	Strongly disagree	Don't know
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please give reasons:

~~I~~  
I WILL SUBMIT ALL REASONS.



**Question 12: Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?**

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Please select one:

- I do not wish to discuss my submission at the hearings but give permission for Wellington Hospitality New Zealand to discuss my main points
- I wish to discuss the main points of my submission at a hearing.

Your name: CLINTON DAN HETTEL

Contact address: ~~PO~~ PO BOX 9040  
MAKIAS SQ. WELLINGTON.

Phone Numbers: 021 43 58 51. 04 8016797.

Email: clinton@sfbh.co.nz

Signature:  Date: 15/7/2013.

**THE COUNCIL WILL NOT ACCEPT ANONYMOUS SUBMISSIONS**

Only a person or agency that has made a submission on a draft LAP will be able to appeal against any element of the resulting provisional LAP.

**Privacy statement:** All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Return to Freepost 2199, The Right Mix, Wellington City Council, PO Box 2199, Wellington 6011.

copy of original misplanned.

SUBMISSION No. .... 328

oral @ 12.10 pm 08.

Submitter Name: Mat lear	Contact Address: 214 Chiro rd, brooklyn	Email Address: Matlear@gmail.com	Phone Numbers: 2.74E+08	I wish to discuss the main points of my submission at a hearing.	think that the Council should designate a specific Entertainment Precinct with later	Is anti-competitive?	No	the evolution of the city's growth by limiting later trading to one designate	No	in higher rents and increased costs for the bar / cafes / restaurants in the Entertainment	No	Comments: We pretty much already operate as a precinct	Response 06:00:00	Comments: Staggering the closing times is much better than having them all close at once
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Response	Comment s:	Response	Comment s:	Response	Comments:	way door' after a set time whereby no one else is allowed into the premises but those inside may	A limit on the number of drinks sold in any one transaction after a certain time	A minimum number of security staff set by the Council	Compulsory dedicated staff to manage all queues	A minimum number of Duty Managers	Premises to pick up litter within a certain area
03:00:00	I dont know of many places that are trading up till then anyway	01:00:00	If people want to drink after then they should be in town	No	What is the point of having a 5 am licence if you are only trading to 4, as responsible bar owners we should be given the authority to decide who it is reasonable to serve, have the wind down period of 30 mins after licence expires( the current set up)	No	No	No	Yes	No	Yes

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<input type="checkbox"/> Security staff to wear High Viz Vests	<input type="checkbox"/> No glass drinking vessels permitted in any outside area past a certain time	<input type="checkbox"/> All outside temporary furniture to be removed after a certain time	<input type="checkbox"/> No loudspeaker, amplifier, or other audio equipment outside the premises.	<input type="checkbox"/> Compulsory CCTV	<p><b>Comments:</b>  Having to switch glassware for plastic at a certain time is un realistic to ask of licensees that are selling a premium product. I agree that on 7s it should be plastic but that is a special event, on any given night there is not enough harm from using glass to warrant making everyone switch to plastic and cheapen the brand that is wellington hospo. A one way door policy is a joke and a logistical nightmare, Why cant good operators be left to do their job and decide who is ok to serve? Surely a best practise bar should be capable of doing this.</p>	<input type="checkbox"/> Better public transport options at night	<input type="checkbox"/> More lighting in the CBD	<input type="checkbox"/> More CCTV cameras in public spaces	<input type="checkbox"/> More street entertainment	<input type="checkbox"/> More food trucks late at night	<input type="checkbox"/> A chill out zone with water, food, transport information, medical assistance							Yes	No	No	Yes	Yes	No	Yes	Yes	Yes
--	--	---	--	--	---	---	---	---	--	---	---	--	--	--	--	--	--	-----	----	----	-----	-----	----	-----	-----	-----

	<input type="checkbox"/> An instant fine for being intoxicated and/or being a nuisance in a public place	<input type="checkbox"/> A trespass from the city centre for 90 days if caught intoxicated /being a nuisance	<input type="checkbox"/> Greater Police presence	<b>Comments:</b>	<b>Response</b>	<b>Comments:</b>	<b>Response</b>	<b>Comments:</b>	<b>Response</b>
<input type="checkbox"/> More enforcement of liquor bans	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<p>I like food trucks but i do not think there is the demand for them, there are already enough mostly empty late night food options to choose from I whole heartedly support making the public responsible for their actions, it is only a few that cause problems, punish them not everyone else</p>	21:00:00	<p>It is the best way to combat pre and side loading</p>	<input type="checkbox"/> Yes	<p>When supermarkets are with in the entertainment area they are essentially a bottlestore</p>	<input type="checkbox"/> Strongly Disagree

<p><b>Please give reasons:</b></p> <p>There are parts that have completely missed the mark. More onus must be put on the public to be responsible for themselves. The council has admitted that the majority of wellington licensees are running excellent establishments. Target the ones who aren't instead of forcing a whole lot of unreasonable pointless and sometimes irrelevant conditions on everyone.</p>	<p>Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?</p>
<p>Need more clarification on what is best practice and an early indication(pre december) what bars will fit into this</p>	



SUBMISSION No. **327**.....

Online Submissions to Wellington City Council's Draft LAP

Submitters Name:	Contact Address:	Email Address:	Phone Numbers:	
Tracey Macrae	30 Courtenay place wellington	Macraetracey@hotmail.com	272261102	I wish to discuss the main points of my submission at a hearing.



<p>Do you think that a designated Entertainment Precinct with later hours than the rest of the City CBD:</p>			
<p>Do you think that the Council should designate a specific Entertainment Precinct with later hours than the rest of the City CBD?</p>			<p>Yes</p>
	<p>Is anti-competitive?</p>		<p>No</p>
	<p>Will limit the evolution of the city's growth by limiting later trading to one designated area?</p>	<p>Will result in higher rents and increased costs for the bar / cafes / restaurants in the Entertainment Precinct?</p>	<p>No Yes</p>
		<p>Comments:</p>	

<p>The proposed trading hours in the Entertainment Precinct for On-licenses (bars, nightclubs restaurants) are 7am-3am (7am- 5am for best-practice premises). What do you think the latest trading hour in the Entertainment Precinct should be (if one is created)?</p>	<p>Response</p> <p>6:00:00 a.m.</p>	<p>Comments:</p>
<p>Outside of the Entertainment Precinct in the City CBD the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am-2am (7am-3am for best-practice premises). What do you think the latest trading hour in the City CBD should be?</p>	<p>Response</p> <p>5:00:00 a.m.</p>	<p>Comments:</p>

	<p>In Suburban Centres the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am-midnight. What do you think the maximum trading hour in Suburban Centres should be?</p>	<p>The policy proposes a 'wind down hour' protocol for premises open after 2am, whereby the lighting is turned up, the music turned down, and during this last hour the premises is open you could not purchase a drink (this in effect results in a closing time of an hour earlier than the licensed hour for the premises). Do you think this should be compulsory for all premises that are open after 2am?</p>
<p>Response</p>	<p>Comments:</p>	<p>Response</p>
<p>1:00:00 a.m.</p>		<p>Comments:</p> <p>No</p>

The Council are proposing the following conditions could be imposed on a licensed premise. Do you agree? Please select Yes or No for each proposed condition.

A 'one way door' after a set time whereby no one else is allowed into the premises but those inside may remain	No	A limit on the number of drinks sold in any one transaction after a certain time	No	A minimum number of security staff set by the Council	No	Compulsorily dedicated staff to manage all queues	No	A minimum number of Duty Managers	Yes	Security staff to wear High Viz Vests	No	No glass drinking vessels permitted in any outside area past a certain time	No	All outside temporary furniture to be removed after a certain time	No	No loudspeaker, amplifier, or other audio equipment outside the premises.	No	Compulsorily CCTV	Yes	Comments:	Who makes the council the best judge of how much security and staff are needed etc a beat practice manager will already know this. It will be too hard to swap out all glass wear at 3am to plastic and will make bars permanently need to use plastic which cheapens the image of the bar and city, it is ok at events as public almost expect it but during the week when u pay \$11 for a wine or \$16 for a martini u don't want a plastic glass given to u. This stuff all sounds way to regulated when alcohol relates harm has not been on the rise over the past 10 years
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Do you think the safety and vibrancy of the City Centre would be enhanced by the following?																				
									Comments:											
Better public transport options at night	Yes	More lighting in the CBD	Yes	More CCTV cameras in public spaces	Yes	More street entertainment	No	More food trucks late at night	No	A chill out zone with water, food, transport information, medical assistance	Yes	More enforcement of liquor bans	Yes	An instant fine for being intoxicated and/or being a nuisance in a public place	Yes	A trespass from the city centre for 90 days if caught	Yes	Greater Police presence	Yes	There is already enough food availability in the city, having outside entertainment will cause sneaky pre loading on the streets that can't be managed with the resources from police therefore putting it down the bars to deal with once again

<p>The proposed trading hours for Off-premises (supermarkets and bottle stores) are 7am-9pm. What do you think the maximum trading hours for Off-premises should be?</p>	<p>Do you think that supermarkets should have the same trading hours as other Off-premise venues such as bottle stores?</p>
<p>Response</p>	<p>Response</p>
<p>9:00:00 p.m.</p>	<p>Comments:</p> <p>This is where the nz problem stems from... Pre loading or drinking at home at house parties</p>
<p>Comments:</p>	<p>Comments:</p>
<p>Yes</p>	

Overall, do you agree with the direction of the draft Local Alcohol Policy?		
Response	Please give reasons:	Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?
Strongly Disagree	<p>I think the new draft policy is putting way too many rules and regulations onto on licences and the council did not take into account at all putting the onus back onto the public for the harm they personally cause, the problem people are a small percentage of public so why are we not penalising them and fining for drunk and disorderly behaviour. police and council admit that wellington bars run well but still blame the bars and are making it harder for owners to survive in this tough economic market</p>	<p>I am extremely worried about how long it is going to take to bring back the 6am (5am) licences after the default period comes into play, let alone if and who gets to find out if they are a best practice bar. Shutting at 4 will harm some businesses to the point that owners want out, why should they have to stay waiting for another 6 months to a year to find out? Pleas over rule the default period and get wcc a into g.</p>

**Jaime Dyhrberg**

---

**From:** on behalf of BUS: Alcohol Strategy  
**Subject:** FW: The Right Mix - Confirmation

12:10 pm 8/8

From: Wellington City Council [mailto:webcentre@wcc.govt.nz]  
Sent: Friday, August 02, 2013 4:54 PM  
To: BUS: Alcohol Strategy  
Subject: The Right Mix - Confirmation

The following details have been submitted from the Draft Alcohol Management Strategy and the Draft Local Alcohol Policy consultation form on the Wellington.govt.nz website:

PAGE 1 QUESTIONS

Submitter details:

First Name: Kevin  
Last Name: Rikys  
Street Address: 28 Tawa Street  
Suburb: Eastbourne  
City: Lower Hutt  
Phone: 021678123  
Email: kevin@rikys.com

I would like to make an oral submission. Yes Phone number: 021678123

I am giving this feedback: on behalf of an organisation Organisation name:  
 Kamer Holdings Ltd & KFW Ltd

PAGE 2 QUESTIONS

Under the proposed zone framework, late-night trading activity of bars and entertainment venues (after 2am or until 3am at the latest) will be moved into a specific Entertainment Precinct in the city to better manage the harm associated with trading at this time.

Disagree

Comments: Removes ability for city to evolve. Harm issues can be managed using other tools & strategies

Risk-based management framework

Strongly agree

Comments:



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Entertainment Precinct maximum trading-hour restrictions for on-licensed venues Disagree

Comments: Maximum trading hours should be either generically the same or site specific

Central Area maximum trading-hour restrictions for on-licensed venues Disagree

Comments: Maximum trading hours should be either generically the same or site specific

Suburban Centre maximum trading-hour restrictions for on-licensed venues Disagree

Comments: Maximum trading hours should be either generically the same or site specific

The proposed maximum trading-hour restrictions of 7am - 9pm for off-licensed venues (supermarkets, grocery stores, bottle stores) Agree

Comments: As long as hours apply to ALL off premise... ie no distinction between bottle stores & grocery however Our suburban bottle stores are situated to service our local community and evening customers are usually returning home from work, or from city entertainment. Store records this year to date indicate that 8%-10% of our Thur, Fri and Sat daily business is transacted in the post-9pm timeframe. Customer service would require us to stop or limit admission some 10-15 minutes prior to cessation of service, or from 8:45pm in the LAP proposal. We request and will support a proposal for 10pm closure.

Treating all off-licence venues the same Strongly agree

Comments: see above

## PAGE 3 QUESTIONS

Council focus on applications for youth-focussed occasions or events Agree

Comments:

The proposed circumstances that would trigger a District Licensing Committee hearing for dealing with issues of density and proximity of licensed premises Disagree

Comments: Density and proximity provisions should apply only to new applications unless there are other circumstances related to an existing licence. Premise leases will require protection against anti-alcohol conscientious objectors using licence renewal hearings to promote their views.

The proposed discretionary conditions that could be applied to a licence.

Disagree

Comments: While agree in general, small suburban single-staff bottle stores may not be able to provide an "observation zone" and/or ongoing supervision for patrons refused service - current host responsibility practice is to arrange a

safe-transport option.

Overall, do you agree with the direction of the draft Local Alcohol Policy?

Agree

Your comments (be specific): While agreeing with the direction and objectives of the Policy, the emphasis on pre- and side-loading as a primary issue is surprising. An extended strengthened liquor ban, with default 11pm off-licence closure, and rigorous on-licence host responsibility should over time reduce this problem.

What are the best aspects of the draft Local Alcohol Policy?

-

What aspects of the draft Local Alcohol Policy do you think need to be changed?

The "local", pub and bottle store is and always has been an important social aspect of an amenable suburb. The 9pm bottle store closure is too early in the context of suburban dining and sports taverns. Suburban bottle stores customers are in the main locals purchasing for home consumption, on their way home from work or the Ci

Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?

-

#### PAGE 4 QUESTIONS

The proposed goals in the draft Alcohol Management Strategy are achievable.

Agree

Comments:

The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals.

Don't know

Comments:

The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol.

Don't know

Comments:

2 August 2013

SUBMISSION No. 1875

12:20 PM  
8/8/2013

To whom it may concern

**Re: LAP submission**

Thank you for providing the opportunity for HPA to make a submission on the Wellington City Council's draft Local Alcohol Policy (LAP).

We wish to speak to this submission.

On 1 July 2012 the Health Promotion Agency (HPA) took over the functions of the Alcohol Advisory Council of New Zealand, the Health Sponsorship Council and some programmes funded by the Ministry of Health. HPA is specifically charged in legislation with giving advice and making recommendations on the sale, supply, consumption, misuse and harm of alcohol.

HPA congratulates the Wellington City Council on its commitment to introducing a LAP. HPA encourages and supports local authorities to develop policies that are well consulted and reflect local community views. We are aware that the consultation process during the development of this LAP has been thorough and inclusive. We were pleased to support the Council by attending many of the public consultation meetings.

While you have published comprehensive material covering not just the LAP but also an alcohol strategy for Wellington, our comments in this submission are restricted to the draft LAP only. We address the questions in the submission form you provided below.

**Under the proposed zone framework, late-night trading activity of bars and entertainment venues will be moved into a specific Entertainment Precinct to better manage the harm associated with trading at this time.**

The identification of zones and the priorities for each of them, and the resulting policies for managing alcohol within each of the zones are detailed in the draft LAP. The creation of entertainment zones is increasing worldwide, but there is also evidence that alcohol outlet density can be related to alcohol-related problems. Many studies have found an association between the

number of outlets and increased levels of alcohol consumption at a neighbourhood level and related harm. An entertainment precinct arguably forces more interactions between drinkers, in a more restricted area.

HPA recognises that it is necessary to establish a balance between fostering a vibrant night time economy and addressing alcohol related harm. The creation of the proposed entertainment zone is an attempt to manage the sale and supply of alcohol within that zone. The draft LAP does not however explain the reasons for the differentiation of Courtenay Place and Cuba Street from other parts of the central city where there are bars and other licensed premises which provide entertainment and also contribute to the vitality of the city, and where licence holders might reasonably argue that they are also best practice operators.

HPA believes that the default trading hours specified in the Sale and Supply of Alcohol Act 2012 should be regarded as the outer limit – with more restrictive hours imposed by LAPs where local circumstances require it. HPA considers that there is a risk that the establishment of a smaller entertainment zone within the central city will mean that hours longer than the LAP maximums are likely to be sought by many licensees within that zone.

**The proposed risk-based management framework reviews the suitability of all elements of the activity in relation to its impacts on the community, and provides a risk classification.**

The draft LAP puts considerable weight on risk assessment, where licence inspectors will evaluate risk and assign a classification. HPA agrees that this is an innovative idea, and it has potential for managing late trading. However, the classification will affect the opening hours and other conditions for the premises. HPA understands that the risk classification will also be used to help determine the City Council component of the licensing fees. Trying to bring together a risk classification to set fees and also to determine eligibility for later trading hours has an elegance about it – but may not be practical until the fee regime is established by regulation. The two systems could remain separate.

The draft LAP refers in different places to both the operator and the operation being classified. It should be consistent. Neither of these terms has a formal definition which is confusing.

The text implies that there will be no ability for premises with late night trading to improve their risk rating.

"With the exception of late-trading venues (where compliance/monitoring fees are higher and greater restrictions are placed around operations), the lower the risk, the lower the fees and the fewer restrictions on the licence." LAP p20

However, late trading is not defined. It appears that best practice premises in the entertainment precinct may be granted a licence to open until 5am, but because they have been granted that late

trading, their risk rating will go up, their fees will be higher (if fees and risk rating are linked) and their conditions presumably tougher. This seems to create a risk of a kind of 'Catch 22' situation where you can trade later if you have a low risk rating, but later trading will increase your risk rating. Will all premises wishing to trade after 3am be considered high risk? And if so can any premises be considered best practice enough to be granted past 3am trading hours? This point needs clarifying.

All premises in the entertainment precinct are likely to consider they should be able to open until 5am to ensure there is no advantage to their competitors. Are there to be any restrictions to the numbers of premises able to open to 5am?

HPA suggests that the explanation of the risk classification for premises in the entertainment precinct, and the definition of best practice premises, needs to be better explained.

An assessment template summary is included in the draft. However, there is scant detail about how the assessment will work, what weightings will apply, what process will be followed, and no mention of any appeal process if the licence applicant does not agree with the classification.

The draft LAP refers to the DLC as a function of the council and not as a separate body (p16). It is the view of the HPA that this unintentionally undermines the provisions of the Act that require that every DLC must be treated as a Commission of Inquiry (s 201). As it is currently drafted, the risk assessment adds a level of decision making to the licensing process and leaves it in the hands of the licence inspectors. The LAP should make it clear that inspectors will make a classification recommendation to the DLC who then make licensing decisions.

### **The proposed maximum trading-hour restrictions for on licensed venues**

The draft LAP proposes a range of maximum trading hours for different types of licensed premises in different parts of Wellington. HPA in general does not support later closing than the default national maximum trading hours laid out in the Sale and Supply of Alcohol Act 2012. We do not believe that this draft LAP adequately justifies that later than 4am closing for on-licences in the entertainment precinct is reasonable in the light of the object of the Act.

HPA supports the proposed hours for suburban centres. We believe they reflect the feedback the community has provided.

HPA disagrees with the proposed 7am to 3am licence for conveyances. We expect this would largely apply to party buses and is therefore more likely to contribute to alcohol-related harm than to minimise it.

HPA also disagrees with the proposed 24-hour licensing for caterers. There is no justification for caterers to have trading hours longer than on-licences.

The LAP proposes no limits for special licences. This implies that a special licence might be granted for a premises in order to get around the provisions of an existing licence from time to time. For example, enabling longer hours by special licence. Would many licensed premises therefore be granted special licences for a weekend such as the NZ Sevens tournament? HPA considers that such a provision would detract from the ability of the LAP to reflect community concerns about opening hours and to minimise alcohol-related harm.

### **The proposed maximum trading hour restrictions of 7am to 9pm for off-licensed venues**

We agree that reducing hours for off-licences should contribute to a reduction in alcohol-related harm and we support the reduction of hours from the maximum trading hours provided in the Act when there is a local call by local people with local knowledge.

### **Supermarkets, grocery and bottle stores should be treated the same despite the different range of products they sell.**

HPA agrees with the proposal to treat all off-licences the same in respect of maximum trading hours.

### **Applications for youth-focused occasions or events**

One of the policy principles in the draft LAP is that:

“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.” (p19)

This is repeated in section 9 concerning hours, in respect of special licences. HPA agrees that minimising harm (as it is defined by the Act) should be a priority for the DLC when youth are likely to be involved in an event. ‘Youth’ should be defined.

### **The policy identifies circumstances that would trigger a DLC hearing to deal with issues of density and proximity of licensed premises.**

HPA notes that rather than introduce measures for the numbers of premises or location of premises, Wellington City Council proposes that hearings for some applications will be heard in public. The Act requires that the DLC hold all hearings for opposed applications in public (s203). So the only change provided by the draft LAP is that an uncontested application will also be held in public if triggered by one of the specified factors. Under density, the draft LAP also states that the DLC has the discretion to cancel a hearing if there is no opposition to the application. HPA considers the provisions of the draft LAP to be confusing in this respect.

Holding a hearing in public will make little difference if the public has not had ample opportunity to object to an application before the DLC holds its hearing, unless they are prepared to take submissions from the floor, which would raise a number of legal and procedural fairness issues.

HPA considers that it would be more effective for the LAP to directly address issues of density (by establishing a threshold or sinking lid) where appropriate and proximity (through the development of specific guidelines).

### **Discretionary conditions**

HPA supports the range of discretionary conditions that Wellington City Council proposes should be available to DLCs.

### **Overall do you agree with the direction of the draft LAP?**

Yes, overall the difficult task of limiting alcohol-related harm and balancing the many disparate views of the Wellington community has resulted in a comprehensive draft LAP, which proposes measures that will make a difference to alcohol management in Wellington.

HPA believes the Wellington City Council draft LAP could be more strongly oriented to reducing alcohol-related harm. It could address density and proximity more directly, and take a stronger stance on maximum trading hours. We believe the risk classification has the potential to be a useful tool for assigning trading hours and conditions. However, we think that there are a number of matters, such as the potential circularity in the relationship between risk and late opening hours, the level of decision making, and the likely generation of appeals, that need further analysis and that the whole process needs further refinement.

### **What are the best aspects of the draft LAP?**

The HPA encourages and supports local authorities to develop policies that are well consulted and reflect local community views. We have been impressed with the process undertaken by Wellington City Council to ensure that the local community and stakeholders have had multiple opportunities to be involved in, and influence the development of the draft LAP. We believe that this wider engagement with local communities will provide the council with a policy that will reflect the desires of the community.

We also believe that the implementation guide will be an important document for effective action by the DLC once improvements suggested below are made.

### **What aspects of the draft LAP do you think need to be changed?**

HPA has made a number of suggestions for changes in answer to the questions above. Most importantly, we believe the risk assessment process needs to be further refined.

There are some references to 'one-way door' restrictions being imposed but the LAP draft does not specifically discuss them. We note the DLC is empowered to impose 'one-way door' restrictions regardless of any provision in the LAP and it would be in keeping with the intentions of the document to include a specific discussion on this measure.

The DLC guide to implementing the Wellington City Council LAP is included as appendix one. We understand the utility for the DLC of drawing together in a single document the various procedures and mandatory and discretionary requirements from different sources. HPA considers that the guide could be improved by clearly distinguishing: what is required by the Act; what is discretionary in terms of the Act (with reference to sections of the Act, including section numbers); what considerations are part of the LAP; and what is to be considered standard practice for Wellington DLC decision making. We think that if this was done the DLC would be much clearer about the origins of each of the elements when considering licence applications.

The Wellington City Council draft LAP is a comprehensive document. The DLC Guide repeats much of the material covered in the main document. It is the view of the HPA that the LAP could be simplified, so that the key elements of the risk framework, the hours of operation, and the zones are easy to find, easy to read and easy to understand.

Thank you for the opportunity to make a submission on the draft policy.

Yours sincerely



Dr Andrew Hearn  
**General Manager Policy, Research and Advice**



03

MISSION No. 296

# SUBMISSION TO THE DRAFT WELLINGTON LOCAL ALCOHOL POLICY (LAP)

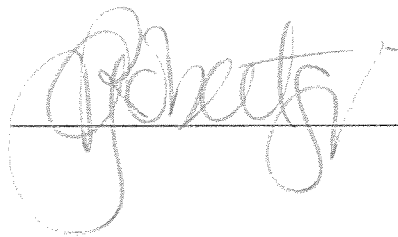
## Submitter Details:

Name: Super Liquor Holdings Ltd  
Agent: Hospitality Licensing Ltd  
Postal Address: P O Box 681  
Oneroa  
Waiheke Island  
Contact: Georgie Robertson  
Phone: 09-372-6107  
Mobile: 021-611-844  
Email: georgie@LicenceMe.co.nz

I ~~do~~/do not wish to be heard at the committee of the full Council.

I request my written submission be considered by the full Council.

Signed:



Date:

2/8/13

rug - getting  
back.  
Booked.

## Definitions

We seek the inclusion of the following:

*"New Licence        A new licence for premises that have previously been unlicensed"*

The aim of this is to remove any ambiguity with the intention of the LAP.

The Council is aware that when licensed premises change hands a 'new' licence must be applied for. It is therefore imperative that these existing licensed premises are not disadvantaged, and have the ability to sell their businesses with the safety that the existing terms and conditions of licence can be maintained.

This is in keeping with the provisions in SSAA in terms of public objections for existing licensed premises.<sup>1</sup>

We seek the inclusion of a reference to other default definitions as set out in section 5 of the Sale & Supply of Alcohol Act 2012.

## Hours for Off-Licenses

1. The draft LAP states trading hours of:

Monday to Sunday        7am to 9pm

We **disagree** with these proposed hours.

*We seek hours until 10pm on a nightly basis.*

2. We wish the following to be included in this section:

*"The maximum trading hours will apply to all forms of off-licenses. This includes bottle stores, grocery stores, and supermarkets."*

This will ensure that no new or existing off-licence holder will be put at a commercial disadvantage in terms of operating hours.<sup>2</sup> It offers a fair playing field for all operators and is considered to be a consistent and appropriate approach to be taken by Council.

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<sup>1</sup> SSAA Section 102(4) – A public objection can only be made on suitability when the applicant applies for the same terms and conditions of a licence already in force.

<sup>2</sup> [2011] NZ LLA PH 244 Para 10.

## Density

It is proposed that all new and renewal applications deemed to be for high risk premises located within the Entertainment Precinct or Southern Zone be automatically required to be determined at DLC hearing in regards to density.

We **disagree** with this proposal.

This has the potential to punish existing licence holders for being located in an area where there are other similar businesses. We submit that this should not apply to renewal applications, unless there are other circumstances that would warrant the application to be determined at a DLC hearing.

It opens the door for a 'sinking lid' policy to be applied by the DLC. It is important to all licence holders to have the ability to sell their businesses as a going concern, and for density provisions to be applied for new premises only.

*It is our submission that this should be amended to read for new applications for premises that have not previously been licensed.*

## Proximity to Sensitive Locations

1. It is proposed that all new and renewal applications deemed to be for high risk premises located within Southern Zone and found to be within close proximity to sensitive locations or another licensed premise be automatically required to be determined at DLC hearing.

We **disagree** with this proposal.

Again, this has the potential to punish existing licence holders for being located in an area where there are other similar businesses. We submit that this should not apply to renewal applications, unless there are other circumstances that would warrant the application to be determined at a DLC hearing.

It opens the door for a 'sinking lid' policy to be applied by the DLC. It is important to all licence holders to have the ability to sell their businesses as a going concern, and for density provisions to be applied for new premises only.

*It is our submission that this should be amended to read for new applications for premises that have not previously been licensed.*

2. It is proposed that all new and renewal applications for any premises located adjacent to or neighbouring a sensitive location is automatically required to be determined at DLC hearing.

We **disagree** with this proposal.

*It is our submission that this should only apply to new licenses for premises that have not previously been licensed.*

It does not take into account that the two premises could have been harmoniously side by side for any number of years. This should only apply to renewal applications if there are other factors that warrant a hearing before the DLC.

3. It is proposed that all new and renewal applications deemed to be for high risk premises located within the Entertainment Precinct be automatically required to be determined at DLC hearing.

We **disagree** with this proposal.

Again, this has the potential to punish existing licence holders for being located in an area where there are other like businesses. We submit that this should not apply to renewal applications, unless there are other circumstances that would warrant the application to be determined at a DLC hearing.

It opens the door for a 'sinking lid' policy to be applied by the DLC. It is important to all licence holders to have the ability to sell their businesses as a going concern, and for density provisions to be applied for new premises only.

*It is our submission that this should be amended to read for new applications for premises that have not previously been licensed.*

## **Conditions of Licence**

The draft Policy has listed many discretionary conditions of licence. It is unclear which of these would apply to off-licence premises and which to on-licence premises.

*It is our preferred option that the Policy clearly states which of the discretionary conditions could apply to off-licensed premises. Specifically, we would seek that only the following discretionary conditions applying to any off-licensed premises in any zone or precinct:*

1. More or less restrictive trading hours (within defined maximum limits) relative to the proposed location and risk classification of the operation.
2. More restrictive trading hours taking into account neighbouring land use.
3. The licensee will ensure that operation of closed-circuit TV of a quality and at a location that will help to identify alcohol-related offending.

We **agree** with this proposal to the point that CCTV should be for the interior of the premises, on the entry to the premises and on the footpath immediately in front of the licensed premises.

4. The licensee is required to notify the Police of any violent incidents that occur on the premises.
5. The licensee is required to maintain a register of incidents that is available for inspection by enforcement authorities at any time during trading hours
6. Before closing the premises, the licensee will ensure all litter is removed from outside the premises in the area defined as:XXX

We **disagree** with this applying to any off-licensed premise in it's current format.

*We would agree with a condition for off-licensed premises that litter would be removed during daylight hours and prior to opening.*

7. Licensee is required to provide effective exterior lighting.
8. Supervised designation for all bottle stores to ensure unaccompanied minors do not enter the premises.

### **Conditions of Licence – Entertainment Precinct**

The draft Policy has listed conditions to potentially apply to any off-licensed premises in the Entertainment Precinct.

We **disagree** with this proposal.

*Discretionary conditions of off-licenses should remain as listed above regardless of precincts or zones.*

### **Irresponsible Promotions**

The draft Policy as worded is inconsistent with Section 237 of SSAA. This section must be specific. Various promotions such as discounts of 25% or more can be displayed but only so as to be seen from the *interior* of the premises.

We **disagree** with this proposal in its currently worded format.

### **Community Involvement - Notification**

The draft Policy has stated that the site notification be A3 in size and displayed for a period not less than seven days.

We **disagree** with this proposal.

An A3 size notice is excessive in size. The standard around the country has been for an A4 size site notification, and that it is displayed for the objection period.

We seek the notice remain at A4 size and be displayed for fifteen working days from the date of the first publication in the newspaper.

### **Temporary Authority**

The draft Policy has stated that a condition of temporary authority will be that an appropriate licence application is made within 15 working days of having the temporary authority granted.

We **disagree** with this proposal.

We understand the reasoning behind the proposed condition, however situations will and do regularly arise that result in delays with lodging substantive licence applications.

The Agency will now be requiring a substantial amount of information to be provided with the licence application. It may not be possible for any applicant to provide some parts such as noise reports in this time frame.

It is normal for any business purchase to be conditional upon a temporary authority issuing. Possession dates could well be some weeks after the temporary authority issues. Any number of delays could be faced before a purchaser would go unconditional on a business. In situations such as that, no purchaser would apply for a substantive licence without the certainty of the purchase proceeding.

**Jaime Dyhrberg**

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**From:** on behalf of BUS: Alcohol Strategy  
**Subject:** FW: The Right Mix - Confirmation

From: Wellington City Council [mailto:webcentre@wcc.govt.nz]  
Sent: Thursday, August 01, 2013 9:34 PM  
To: BUS: Alcohol Strategy  
Subject: The Right Mix - Confirmation

The following details have been submitted from the Draft Alcohol Management Strategy and the Draft Local Alcohol Policy consultation form on the Wellington.govt.nz website:

PAGE 1 QUESTIONS

Submitter details:

First Name: Sam  
Last Name: McBride  
Street Address: 33 Mein Street  
Suburb: Newtown  
City: Wellington  
Phone: 4949170  
Email: sam.mcbride@ccdhb.org.nz

I would like to make an oral submission. Yes Phone number: 0274444305

I am giving this feedback: as an individual Organisation name:

*long text message.*  
*Booked.*

PAGE 2 QUESTIONS

Under the proposed zone framework, late-night trading activity of bars and entertainment venues (after 2am or until 3am at the latest) will be moved into a specific Entertainment Precinct in the city to better manage the harm associated with trading at this time.

Don't know

Comments: The concept of entertainment precincts are poorly researched and whether they meet the aims of the act in reducing harms is unclear.

What is clear is that later hours are associated with significant increases in alcohol consumed and associated harms. In extending hours the council is creating an environment in which risks of violence assaults and crime is more likely to occur- this seems inconsistent with the aims of a vibrant city.

021

Risk-based management framework

Disagree

Comments: It is not the intent of the act to reward good operators. All operators should assume good practice. Poor practice operators should not have licenses renewed

Entertainment Precinct maximum trading-hour restrictions for on-licensed venues Disagree

Comments: 5am is out of keeping with national standards. As stated, the evidence both internationally and locally is clear that harms increase with later hours. Allowing excessive hours appears out of keeping with the intent of the act which is to reduce the harms associated with alcohol.

Central Area maximum trading-hour restrictions for on-licensed venues Agree

Comments: I agree with the police that late night trading should not occur outside of 3am.

Suburban Centre maximum trading-hour restrictions for on-licensed venues

Strongly agree

Comments: The council has set appropriate hours for late night trading that is consistent with the aims of the act.

The proposed maximum trading-hour restrictions of 7am - 9pm for off-licensed venues (supermarkets, grocery stores, bottle stores) Agree

Comments: The reduction in hours of off licenses has been demonstrated to reduce risks associated with alcohol and the council is to be commended in this action.

I believe that seven am is too early for the sale of alcohol and raising the hours to 9am is likely to be of little impact.

Treating all off-licence venues the same Strongly agree

Comments: I commend the council in this step. The bulk of alcohol consumed is through large retail operators such as supermarkets and consistent hours is likely to reduce the harms associated with excessive consumption of alcohol. These hours retain a 14 hour, seven day a week window in which to purchase alcohol and as such should be considered to be of limited inconvenience to most people.

## PAGE 3 QUESTIONS

Council focus on applications for youth-focussed occasions or events Agree

Comments: Whilst recognising that young people are of particular risk to the harms associated with alcohol I would note that it is not an exclusively youth issue.

The proposed circumstances that would trigger a District Licensing Committee hearing for dealing with issues of density and proximity of licensed premises



### Strongly Disagree

Comments: The policy appears to have abdicated responsibility for managing issues of density. This is despite evidence that shows that destiny of alcohol outlets is clearly associated with increased risk. In this regard the council is not meeting the intent of the act.

The proposed discretionary conditions that could be applied to a licence.

Agree

Comments: These seem appropriate and sensible

Overall, do you agree with the direction of the draft Local Alcohol Policy?

Agree

Your comments (be specific): I am broadly pleased with the direction that the council is taking meeting the intent of the act- specifically in reducing off license hours (1d)

What are the best aspects of the draft Local Alcohol Policy?

I commend the council in regard to 1d and believe it is a brave yet appropriate step. It will be of minimum impact to most yet has the potential to reduce significantly the harms associated with alcohol.

I commend the council in regard to the intent of lobbying the government to look at broader based policies in regard to the drinking age, minimum price limits and restrictions on marketing and promotion.

What aspects of the draft Local Alcohol Policy do you think need to be changed?

The policy needs to specifically address issues of density (1g)

The proposal for am closing for the entertainment precept is inconsistent with the intent of the act(1a)

Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?

Place an immediate cap on the number of liquor licences in Wellington , and institute a sinking lid policy in areas where alcohol problems are highest;

(iii) Give priority to on-licence venues that emphasize eating over drinking (restaurants);

(iv) Give priority to off-licence venues that are specialty liquor stores over venues frequented by children and teenagers (supermarkets);

(v) Impose special conditions when a venue is within 1km of a kindergarten, pre-school, primary or secondary school.

(vi) Lobby government on behalf of the people of Wellington for evidence-based alcohol reforms at a national level that will augment local accessibility reforms; of particular note, reforms involving alcohol pricing, the marketing of alcohol, purchase age of alcohol and drink-driving.

#### PAGE 4 QUESTIONS

The proposed goals in the draft Alcohol Management Strategy are achievable.  
Disagree

Comments: Whilst the council has taken some positive steps the creation of an entertainment precept and the failure to deal with issues of density with long hours is unlikely to lead to a vibrant city but rather one with a reputation of increased rates of violence and condoning of hazardous alcohol consumption

The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals.

Disagree

Comments: The steps proposed are in of themselves insufficient to reduce the harms associated with alcohol consumption.

The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol.

Disagree

Comments: Whilst I commend the council for the steps in reducing the off license hours the remainder of the steps are either lacking in evidence or run counter to evidence in reducing harms associate with alcohol; specifically the failure to deal with density and excessive on license hours.

1.35 8/8/2013

SUBMISSION No. ....256.....

individual



## Wellington City Council - Draft Local Alcohol Policy Submission

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**Your submission on the draft Policy is needed by the Council by 5pm on 2 August 2013**

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### INTRODUCTION

The Sale and Supply of Alcohol Act 2012 allows Councils to introduce Local Alcohol Policies which can impact on the trading hours, location, density and operation of licensed premises. Submissions are now invited on the Wellington City Council's draft Local Alcohol Policy.

This is an important issue for the Wellington Hospitality Industry which is a major contributor to the region's economy, bringing in \$700 million annually and helping create the 'Coolest Little Capital' vibe. A Research NZ survey conducted in Wellington in May 2013 found that 87% of respondents agreed with the current hours the city is open. 90% agreed that the hospitality and entertainment scene is dynamic, vibrant and helps define the city's character.

In Wellington the late night economy is significant with \$41 million spent annually in the city on hospitality between the hours of 4am and 7am. This equates to an estimated \$11 million of wages paid to hospitality workers during those hours.

The Research NZ survey found that 72% of respondents drank before coming into town. We know that 75 % of all alcohol sold in NZ is sold off-premise (supermarkets and bottle stores) and only 25% of all alcohol in NZ is sold on-premise (bars, restaurants, night clubs, hotels). Police and Health authorities agree that the major contributor to alcohol related harm is the pre-loading of alcohol before people come out. Police also agree that the vast majority of bars in Wellington are well run and that the issues that do occur are generally related to people attracted to the area and not to the bars themselves.

We believe the safest place for people to consume alcohol and be entertained is on licensed premises, which have strict host responsibilities, trained staff and are heavily regulated and monitored. Imposing greater restrictions on the hospitality industry is unlikely to change the issue of personal responsibility. In fact it may drive consumption increasingly to uncontrolled environments.

The following short survey seeks your opinions on a number of proposals in the draft Local Alcohol Policy and your response will be submitted in your name to the Council as a formal submission on that policy.

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## QUESTIONS

Under the zones proposed in the draft policy there will be an Entertainment Precinct – encompassing Courtenay Place and Cuba Street from Kent Terrace up to Abel Smith Street, (see map below)

- Bars in this precinct can trade to 3am (or to 5am for 'best practice' premises)
- Bars elsewhere in the City CBD can trade to 2am (or to 3am for 'best practice' premises)



**Question 1:** Do you think that the Council should designate a specific Entertainment Precinct with later hours than the rest of the City CBD?

YES

NO

**Question 2:** Do you think that a designated Entertainment Precinct with later hours than the rest of the City CBD:

a. Is anti-competitive?

YES

NO

b. Will limit the evolution of the city's growth by limiting later trading to one designated area?

YES

NO

c. Will result in higher rents and increased costs for the bar / cafes / restaurants in the Entertainment Precinct?

YES

NO

Comments:

The proposed trading hours in the Entertainment Precinct for On-licenses (bars, nightclubs restaurants) are 7am–3am (7am- 5am for best-practice premises).

**Question 3: What do you think the latest trading hour in the Entertainment Precinct should be (if one is created)?**

Entertainment Precinct preferred maximum trading hour (please tick one only)

3am	4am	5am	6am	Other (please comment)
			<input checked="" type="checkbox"/>	

Comments:

Outside of the Entertainment Precinct in the City CBD the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am–2am (7am-3am for best-practice premises).

**Question 4: What do you think the latest trading hour in the City CBD should be?**

City CBD preferred maximum trading hour (please tick one only)

2am	3am	4am	5am	Other (please comment)
			<input checked="" type="checkbox"/>	

Comments:

In Suburban centres the proposed trading hours for On-licenses (bars, nightclubs, restaurants) are 7am–midnight.

**Question 5: What do you think the maximum trading hour in Suburban Centres should be?**

Suburban centres preferred maximum trading hour (please tick one only)

Midnight	1am	2am	3am	Other (please comment)
			<input checked="" type="checkbox"/>	

Comments:

The policy proposes a 'wind down hour' protocol for premises open after 2am, whereby the lighting is turned up, the music turned down, and during this last hour the premises is open you could not purchase a drink (this in effect results in a closing time of an hour earlier than the licensed hour for the premises).

**Question 6: Do you think this should be compulsory for all premises that are open after 2am?** YES  NO

Comments:

**Question 7: The Council are proposing the following conditions could be imposed on a licensed premise. Do you agree?** *Please circle Yes or No for each proposed condition.*

a. A 'one way door' after a set time whereby no one else is allowed into the premises but those inside may remain	YES	<input checked="" type="radio"/> NO
b. A limit on the number of drinks sold in any one transaction after a certain time	YES	<input checked="" type="radio"/> NO
c. A minimum number of security staff set by the Council	YES	<input checked="" type="radio"/> NO
d. Compulsory dedicated staff to manage all queues	YES	<input checked="" type="radio"/> NO
e. A minimum number of Duty Managers	YES	<input checked="" type="radio"/> NO
f. Premises to pick up litter within a certain area	<input checked="" type="radio"/> YES	NO
g. Security staff to wear High Viz Vests	YES	<input checked="" type="radio"/> NO
h. No glass drinking vessels permitted in any outside area past a certain time	YES	<input checked="" type="radio"/> NO
i. All outside temporary furniture to be removed after a certain time	YES	<input checked="" type="radio"/> NO
j. No loudspeaker, amplifier, or other audio equipment outside the premises	YES	<input checked="" type="radio"/> NO
k. Compulsory CCTV	<input checked="" type="radio"/> YES	NO

Comments:

**Question 8: Do you think the safety and vibrancy of the City Centre would be enhanced by the following?** *Please circle Yes or No for each suggestion.*

a. Better public transport options at night	<input checked="" type="radio"/> YES	NO
b. More lighting in the CBD	<input checked="" type="radio"/> YES	NO
c. More CCTV cameras in public spaces	<input checked="" type="radio"/> YES	NO
d. More street entertainment	<input checked="" type="radio"/> YES	NO
e. More food trucks late at night	<input checked="" type="radio"/> YES	NO
f. A chill out zone with water, food, transport information, medical assistance	<input checked="" type="radio"/> YES	NO
g. More enforcement of liquor bans	<input checked="" type="radio"/> YES	NO
h. An instant fine for being intoxicated and/or being a nuisance in a public place	<input checked="" type="radio"/> YES	NO
i. A trespass from the city centre for 90 days if caught intoxicated/being a nuisance	<input checked="" type="radio"/> YES	NO
j. Greater Police presence	<input checked="" type="radio"/> YES	NO

Comments:

The proposed trading hours for Off-premises (supermarkets and bottle stores) are 7am-9pm.

**Question 9: What do you think the maximum trading hours for Off-premises should be?**

Maximum trading hours for Off-premises

9pm	10pm	11pm	Midnight	Other (please comment)

Comments:

**Question 10: Do you think that supermarkets should have the same trading hours as other Off-premise venues such as bottle stores?**

YES  NO

Comments:

**Question 11: Overall, do you agree with the direction of the draft Local Alcohol Policy ?**

*Please tick one only.*

Strongly agree	Agree	Disagree	Strongly disagree	Don't know

Please give reasons:

ITS NOT BROKEN NO  
NEED TO FIX IT

**Question 12: Do you have any other comments either about the content of the draft Local Alcohol Policy or about other matters you want included in the policy?**

Please select one:


- I do not wish to discuss my submission at the hearings but give permission for Wellington Hospitality New Zealand to discuss my main points
- I wish to discuss the main points of my submission at a hearing.

Your name: Jason MARTIN Roberts

Contact address: 8 65 WAVERTON TERRACE  
CEURTON PARK.

Phone Numbers: 0274738533

Email: kjroberts@xtra.co.nz

Signature:  Date: 29/07/2015

**THE COUNCIL WILL NOT ACCEPT ANONYMOUS SUBMISSIONS**

Only a person or agency that has made a submission on a draft LAP will be able to appeal against any element of the resulting provisional LAP.

**Privacy statement:** All submissions (including name and contact details) are published and made available to elected members of the Council and the public. Personal information supplied will be used for the administration and reporting back to elected members of the Council and the public as part of the consultation process. All information collected will be held by Wellington City Council, 101 Wakefield Street, Wellington. Submitters have the right to access and correct personal information.

Return to Freepost 2199, The Right Mix, Wellington City Council, PO Box 2199, Wellington 6011.

*Handwritten notes:*  
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**Giselle Bareta**

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**From:** Wellington City Council [webcentre@wcc.govt.nz]  
**Sent:** Friday, 2 August 2013 11:50 a.m.  
**To:** BUS: Alcohol Strategy  
**Subject:** The Right Mix - Confirmation

The following details have been submitted from the Draft Alcohol Management Strategy and the Draft Local Alcohol Policy consultation form on the Wellington.govt.nz website:

PAGE 1 QUESTIONS

Submitter details:

First Name: Naginbhai (Neil) G.  
Last Name: Patel  
Street Address: 316 Willis Street  
Suburb:  
City: Wellington  
Phone: 043845053  
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I would like to make an oral submission. Yes Phone number: 043845053

I am giving this feedback: as an individual Organisation name:

PAGE 2 QUESTIONS

Under the proposed zone framework, late-night trading activity of bars and entertainment venues (after 2am or until 3am at the latest) will be moved into a specific Entertainment Precinct in the city to better manage the harm associated with trading at this time.

Disagree

Comments: It will monopolize the area. We want the status quo.

Risk-based management framework

Disagree

Comments: The original fee should cover all expenses.

Entertainment Precinct maximum trading-hour restrictions for on-licensed venues Disagree

Comments: 7am - 2am (the following day) for off licenses.

7am - 6am (the following day) for on licenses.

*Booked.*

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Central Area maximum trading-hour restrictions for on-licensed venues

Disagree

Comments: 7am - 2am (the following day) for off licenses.

7am - 6am (the following day) for on licenses.

Suburban Centre maximum trading-hour restrictions for on-licensed venues

Disagree

Comments: 7am - 2am (the following day) for off licenses.

7am - 6am (the following day) for on licenses.

The proposed maximum trading-hour restrictions of 7am - 9pm for off-licensed venues (supermarkets, grocery stores, bottle stores) Disagree

Comments: 7am - 2am (the following day) for off licenses.

7am - 6am (the following day) for on licenses.

Treating all off-licence venues the same Disagree

Comments: Supermarkets should be able to sell spirits, RTD's. This is a common practice in the United Kingdom.

#### PAGE 3 QUESTIONS

Council focus on applications for youth-focussed occasions or events Agree

Comments: These events should be encouraged to provide more food, entertainment.

The proposed circumstances that would trigger a District Licensing Committee hearing for dealing with issues of density and proximity of licensed premises

Disagree

Comments: This is unnecessary cost. Applications should be considered on their own merits.

The proposed discretionary conditions that could be applied to a licence.

Disagree

Comments: The DLC should not have discretionary power.

Overall, do you agree with the direction of the draft Local Alcohol Policy?

Disagree

Your comments (be specific): The LAP should not discriminate against certain licenses. A 'tick box' approach should be used. If application ticks all the boxes they should get license.

What are the best aspects of the draft Local Alcohol Policy?

None.

What aspects of the draft Local Alcohol Policy do you think need to be changed?

Opening hours, focus on on-licenses.

See enclosed submission.

#### PAGE 4 QUESTIONS

The proposed goals in the draft Alcohol Management Strategy are achievable.

Disagree

Comments: It will cost allot of money and waste resources.

The initiatives proposed in the Implementation Plan (attached to the draft strategy) will deliver on the strategic goals.

Disagree

Comments:

The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol.

Strongly Disagree

Comments: It does not deal with the issues and it make it worse.

**SUBMISSION ON A DRAFT LOCAL ALCOHOL POLICY  
UNDER S75 OF THE SALE AND SUPPLY OF ALCOHOL ACT 2012**

**TO:** Wellington City Council ("WCC" or "Council")

**IN THE MATTER:** A draft Local Alcohol Policy ("LAP") under section 75 of the Sale and Supply of Alcohol Act 2012 ("Alcohol Act")

**Name:** Hospitality New Zealand, Wellington Branch ("Hospitality NZ")

**Address:** Level 2 Radio Network House  
Cnr Taranaki and Abel Smith Sts  
PO Box 503  
Wellington

**1. INTRODUCTION AND OVERVIEW**

- 1.1 Hospitality NZ represents approximately 300 hospitality businesses in the Wellington region. Its members have contributed significantly to Wellington, both economically and culturally, and wish to continue to do so. Hospitality NZ wishes to work with the Council to achieve a dynamic, people centred and safe city.
- 1.2 Hospitality NZ is committed to ensuring that people can be entertained and have a good time across Wellington, while avoiding harm to themselves and others.
- 1.3 Hospitality NZ is concerned in particular that:
- (a) The Council has not achieved the "right" balance between the object of the Alcohol Act to avoid harm and the need for the LAP to be reasonable in light of its purpose.

- 884
- (b) In particular, the precinct based approach is unnecessary, and, furthermore, is fundamentally unfair to responsible operators located outside the entertainment precinct. It will have unintended consequences that risk increasing harm, as more people will be ejected into the streets at the same time and concentrated into the entertainment precinct. There has also been a complete failure to even attempt to quantify the costs to operators both inside and outside the entertainment precinct. Businesses and livelihoods are at risk.
  - (c) The general "discretionary" conditions are not appropriate or needed for many operators (and some, such as "one-way door" policies, are not needed at all), but are likely to be imposed in practice as a matter of course. The LAP needs to better facilitate a case by case evaluation, otherwise operators will face significant additional costs without any benefit to the community. The "discretionary" conditions that "will" be applied to late-trading licences are also expressed as mandatory conditions and may not be appropriate in all situations. The Council is not an expert at managing on-licence premises, but its approach to conditions descends into that arena. It ignores the fact that the Police, Health and even the Council all acknowledge that the Wellington hospitality industry is generally very well run. Operators should be entitled to rely on their own expertise and have reasonable flexibility in the approach they adopt to ensure that harm arising from their premises is avoided.
  - (d) The Council has failed to give sufficient weight to the importance of personal responsibility and individual freedom and to consider means of reducing harm other than the draconian restrictions on opening hours and conditions proposed in the draft LAP. Attached to this submission is a memorandum addressing other legal options available to the Council to give it the powers it needs to better address people who misbehave in public under the influence of alcohol, and to discourage those people from misbehaving.
  - (e) Overall, the Council has not, in developing the draft LAP, undertaken the necessary analysis or evaluations, and in particular has had insufficient information as to the costs of the

draft LAP to operators and the City. It has effectively displayed an underlying bias, applying a "confirmation bias" to the material before it on the presumption that late night socialising is intrinsically harmful. It has failed to acknowledge that licences are currently available until 7am (and that some operators have adopted a business model to cater for those hours), so any "drawing back" from those hours is a significant change and impact. Operators of on-license premises invest large amounts of money in the Wellington region, based on the hours they reasonably expect they will be allowed to operate. The proposed changes to the maximum trading hours will mean on-license premises will be forced to close, and jobs will be lost.

1.4 Hospitality NZ seeks:

- (a) As its primary relief, the rejection of any precinct approach in the central city and a standard approach whereby licences would be available to 3am, with extensions determined on the basis of a "track record" assessed over a 12 month period. That outcome would be fairest for existing and future operators, and help promote Wellington as a vibrant, entertainment destination both locally and internationally. The Southern Zone and Suburban Centres should have a 1am closing time.
- (b) In the alternative, if the Council wishes to impose unfair and arbitrary precinct distinctions, *but without prejudice to Hospitality NZ's ability to pursue its primary relief on any appeal should the following alternative not be adopted*, then a precinct approach whereby:
  - (i) Operators within the proposed entertainment precinct can open to 3am and apply immediately for a 5am late licence.
  - (ii) Operators in the city outside the entertainment precinct can open to 3am, and, after 12 months of training and a proven "tack record", can then seek a 5am late licence.
  - (iii) The Southern Zone and Suburban Centres have a 1am closing time.

- (c) In either case, Hospitality NZ sees no harm in allowing off-licences (both supermarkets and bottle stores) to remain open for the default hours of 7am-11pm hours.
- (d) Again, in both cases, for the Council to focus more on personal responsibility, including through investigation and potential adoption of a bylaw or local bill that will empower the Council to impose instant fines for being intoxicated and/or being a nuisance in a public place, and, potentially, as a last resort, trespass the worst offenders from the city centre for limited periods of time. (This is similar to the approach taken in Melbourne.)

## 2. THE DECISION MAKING FRAMEWORK

### The Alcohol Act

- 2.1 It is accepted that the Alcohol Act gives councils wide ranging powers to make changes to the alcohol licensing regime by, for example, imposing conditions on licences and amending the maximum opening hours.<sup>1</sup>
- 2.2 However, those powers must be exercised reasonably and consistent with the purpose and object of the Alcohol Act, together with the more general requirements of Council decision making.
- 2.3 The object of the Alcohol Act is stated as:<sup>2</sup>

To ensure the sale, supply and consumption of alcohol is undertaken safely and responsibly; and that the harm caused by the excessive and inappropriate consumption of alcohol is minimised.

[Emphasis added]

- 2.4 The minimisation of harm is not an objective to be achieved at all cost, or without regard to the economic and other consequences of actions taken to reduce harm. This is reinforced by the requirement on appeal of a proposed LAP that the Licensing Authority consider whether the LAP is "unreasonable" in light of the objective of the Alcohol Act. That requires consideration of whether the means proposed in the Alcohol Act are proportionate to the harm avoided when considered against the costs

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<sup>1</sup> Wellington City Council - The Right Mix: Draft Local Alcohol Policy, pg 10.  
<sup>2</sup> Alcohol Act, section 4.

imposed. This is further reinforced by the purpose of the Act which describes the "characteristics of the new system" [ie that introduced by the Act] as including that "it is *reasonable*" [emphasis added].

In respect of the need to consider costs and benefits, it is understood that the Council does not believe it is under any requirement to undertake a cost-benefit analysis. While there is no specific requirement under the Alcohol Act to do so, understanding costs and benefits is necessary (or implicitly required) to understand whether the draft LAP is reasonable (or unreasonable). The Local Government Act 2002 also imposes general obligations on councils in making decisions, including consideration of "the benefits and costs of each option in terms of the present and future interests of the district" - section 77(1)(b)(i). While the Council has some latitude as to the extent to which it considers benefits and costs (in proportion to the significance of the matters affected by the decision), the LAP will significantly affect people and communities. It is contrary to those requirements, let alone transparent and informed decision making, for the Council to reject any need for a cost-benefit evaluation outright. That also undermines the Council's claimed "evidence-based" approach to the development of its draft LAP.

- 2.5 The statutory starting point in terms of licensing hours, 8am to 4am, should be carefully considered by the Council.<sup>3</sup> To draw back from the 4am closing time across much of the city (potentially compounded by "wind down periods") requires robust evidence and evaluation, which, with respect, is lacking in the present process. Also relevant is the existing starting point, which is that 7am licences have been available to date - and have been relied on by some operators in developing their businesses.

#### **General principles of decision making**

- 2.6 The Council must also keep in mind its wider purpose, which is to provide for democratic and effective local government that promotes, among other things, the accountability of local authorities to their communities.<sup>4</sup>
- 2.7 Accordingly, it is critical that the Council takes careful note of the views of its communities,<sup>5</sup> and adopt transparent processes that enable full and

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<sup>3</sup> Section 43, Alcohol Act.

<sup>4</sup> Section 3(c) LGA.

<sup>5</sup> Section 78, LGA.



informed participation by affected stakeholders,<sup>6</sup> and therefore informed decision making by the Council. The views of the operators and our customers are particularly relevant.

### **The purpose of the LAP**

- 2.8 The purpose of a LAP is to assist the Council in meeting its obligations under the Alcohol Act and any amendments that may arise out of it in the future.<sup>7</sup>
- 2.9 It will have significant consequences for operators once adopted, effectively determining their possible opening hours and their likely licensing conditions.

## **3. KEY ELEMENTS OF THE LAP**

### **Introduction**

- 3.1 It is important to identify the three types of licenses available to operators that supply alcohol:<sup>8</sup>
- (a) On-licence - Licensed for the sale or supply of alcohol for consumption on premise, these are operators that provide a controlled environment for the consumption of alcohol.
  - (b) Off licence - Licensed for the sale of alcohol, to be consumed elsewhere.
  - (c) Special licence - used to control the sale and supply of liquor for events or social gatherings where an on/off licence is not in force or appropriate.
- 3.2 Hospitality NZ's submission focuses on the on-licence issues, as those are of most concern to its members. Some of its members of course also hold off licences and seek special licences from time to time.
- 3.3 Some of the harms of concern to the Council as to "pre" and "side" loading are, in Hospitality NZ's submission, just as likely to occur whatever the restrictions on hours of sale from off licences (people will just be more organised and stock up earlier in the day or week).

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<sup>6</sup> Section 3(b) Rating Act; sections 14(b), 78, 79, LGA.

<sup>7</sup> Wellington City Council - The Right Mix: Draft Local Alcohol Policy, pg 10, pg 16.

<sup>8</sup> Wellington City Council - The Right Mix: Draft Local Alcohol Policy, pg 22.

- 3.4 It is also important to bear in mind that around 75% of alcohol consumption actually occurs outside of regulated licence premises.<sup>9</sup> As such, on licences account for only a quarter of alcohol consumption. Further, studies of alcohol use in New Zealand have consistently indicated that 40-48% of drinkers who consume *large* amounts of alcohol do so at home, 35-41% do so at someone else's house, while *only* 16-19% do so in pubs and taverns.<sup>10</sup>
- 3.5 Despite this evidence, it is concerning that some off licence retailers continue to direct blame at onsite premises. The Council needs to address this and confirm that the real issue is personal responsibility, rather than being the "fault" of either the retailers or the on-licence operators. To the extent that retailers contribute to the issues, the "loss-leading" practices of some retailers, which exacerbates the pre-loading issue, needs to be examined.
- 3.6 Hospitality NZ considers it appropriate for all off-licences (ie supermarkets and bottle stores) to be treated in the same way and be subject to the same closing hours. 7am-11pm trading for off-licences seems appropriate, achieving the right balance between the convenience for those who shop during that period and wish to purchase alcohol as part of their usual shop for later consumption, and minimising the potential for people to purchase alcohol late at night to "pre-load" before heading into town that night.

### Principles

- 3.7 The draft LAP proposed eleven principles to guide the administration of liquor licensing. Hospitality NZ supports many of those principles, but is concerned at the way the Council seeks to implement those principles.
- 3.8 Of course the Council should seek to act consistently with the Alcohol Act. But a key purpose of that Act is to have a system that is *reasonable*. The Council is at significant risk of applying some general policies or statements of principle *unreasonably*.

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<sup>9</sup> Refer to Hospitality New Zealand - Informing the debate on Local Alcohol Policies - Fact v Fiction, attached to this submission.

<sup>10</sup> Refer Alcohol Use in New Zealand 2004 (Health behaviors survey undertaken by the Ministry of Health) page 30,, and Alcohol use in NZ (Key results of the 2007/08 NZ alcohol and drug survey) pg 42.

- 3.9 For example, while Hospitality NZ agrees that the Council should consider how to manage risk, its proposed "risk management framework" has the potential to be applied arbitrarily and at the whim of an individual officer. It is unduly risk averse.
- 3.10 In a similar way, while the Council espouses "fairness" as a key principle, its proposed approach is exceedingly unfair to existing, good, operators, just because they may not be within a "designated" precinct. The wider community expects to have a vibrant and entertaining city into the future. The current draft LAP will stifle that.
- 3.11 Accordingly, the detail of what is proposed in the draft LAP does not, in Hospitality NZ's opinion, achieve the key principles stated by the Council. In particular, it is unduly risk adverse (and may not actually reduce the risk of harm in practice). It is also unfair to operators outside the entertainment zone and those who are responsible and have a good history.

#### **Precincts and maximum trading hours**

- 3.12 The draft LAP seeks, among other things, to impose precinct-based controls for on-licence premises in the Wellington region as follows:<sup>11</sup>
- (a) *for the entertainment precinct* - where the stated priority is to balance vitality and vibrancy with safety and minimising harm<sup>12</sup> (Courtenay Place to Cuba Street): 3am close, with 5am for "best practice operators");
  - (b) *elsewhere in the central city* - where the stated priorities are to ensure the city has broad appeal through a diverse range of activities, accessibility and a welcoming safe environment<sup>13</sup>: 2am close, with 3am for "best practice operators";
  - (c) *Southern zone* - identified as an area over-represented in alcohol related harm data, where the overriding priority is to reduce harm, 7 am till midnight.
  - (d) *Suburban areas* - where the stated priority is to ensure the locality is a pleasant and agreeable place to live alongside vibrant suburban centres, 7 am till midnight.

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<sup>11</sup> Wellington City Council - The Right Mix: Draft Local Alcohol Policy, pg 27.

<sup>12</sup> Wellington City Council - The Right Mix: Draft Local Alcohol Policy, pg 23.

<sup>13</sup> Wellington City Council - The Right Mix: Draft Local Alcohol Policy, pg 23.

- 3.13 Hospitality NZ is concerned with the precinct based approach within the central city in particular. It is arbitrary and has no proven benefit, other than to provide a competitive advantage to the group within the entertainment precinct (and a disadvantage or detriment to those outside it). It is also unclear in the draft LAP what the Council will consider to be "best practice". Even in the best managed bars, incidents can occasionally occur. For good operators, they are thankfully rare. But to require every operator wishing to open "later" to adopt every possible measure is unreasonable and could well be uneconomic. The hospitality industry is highly competitive and the margins for many operators are not such that significant additional costs can just be absorbed.
- 3.14 Hospitality NZ seeks the removal of the precincts, at least in the central city. In the central city the status quo includes many operators who have 7am licences. So to constrain that to a 5am limit is already a significant concession, let alone to apply a 3am restriction except for those within the "entertainment precinct" is unfair and unnecessary. If there was a real and persistent issue with late night opening, then the Council would have already moved against it. As indicated above, the starting point for Hospitality NZ is that the capital of New Zealand, if it wants to be a vibrant, international city, is that opening across the city should be enabled out to 5am. Even putting aside the many international visitors that the Council (presumably) wants to attract to the city, many of the people who enjoy "late night" hours are often hospitality workers themselves looking to relax after their working day has ended, or professionals and others who work late and therefore have not been socialising for such extended periods of time.
- 3.15 Hospitality NZ has concerns around the proposed hours for the suburban area. The proposal to close at midnight would be a major setback for operators, especially given that there is no empirical data to prove that closing at midnight will result in a reduction in harm. On the contrary, closing earlier may in fact result in more harm as identified at paragraph 5.5 below. For instance the changes to the maximum trading hours in the suburban area may drive patrons to the streets, their homes and to the city to continue drinking, increasing the likelihood of harms such as drink driving and other antisocial behaviour occurring. On-license premises provide a safe environment for patrons to consume alcohol. Further, the losses suffered by the suburban premises will be substantial. Suburban

premises do not have high volumes of clientele throughout the year, these premises are more likely to be dependent on the ability to stay open during important occasions such as sporting events. The LAP's stated purpose for changing the hours in the suburban area is to ensure the locality is a pleasant and agreeable place to live alongside vibrant suburban centres. The proposed changes run the risk of reducing this vibrancy and instead harming responsible operators.

- 3.16 Hospitality NZ is also concerned about the maximum hours proposed for the Southern Zone. A large driving force for these hours, as stated in the LAP, is an over representation of the Southern Zone in ED data on alcohol related harm. There are however limitations to the ED data relied on by the Council. While the Southern Ward is the most common *area of residence* for alcohol related ED admissions for patients aged 15-34,<sup>14</sup> this does not necessarily mean that the alcohol consumption that resulted in the harm took place at an on license premise in the Southern Zone. In fact, the chief medical officer has made clear that the biggest concern is with off-license premises and the risks surrounding preloading and side loading. This indicates that the motivation to restrict on license premises in the Southern Zone is poorly justified. Robust analysis of the data is necessary and the assertions made by Council officers should not be taken at face value.

#### **Discretionary conditions**

- 3.17 The draft LAP specifies in some detail the "discretionary" conditions that can be imposed on a licence in Chapter 11 of the draft LAP.
- 3.18 The LAP first lists a range of "discretionary" conditions the Council may consider when issuing a license. As a first point, the list seems to include just about any condition the Council seems to have been able to think of, irrespective of its workability in real life. It appears designed to let the Council dictate how an operator should run its business, despite the fact that the Council had little or no practical experience at running on-licences. Good operators must have flexibility in how they run their business. They may choose to position themselves for a certain clientele. Some might require more staff, some less. The Council should be focused on outcomes, not the precise means by which any particular operator might achieve those outcomes.

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<sup>14</sup>

Alcohol Management Snapshot, pg 42.

3.19 Rather than having a long list of conditions for the Council to impose, many of which will be inappropriate and unnecessary in almost all cases, it would be better to more clearly define reasonable outcomes that the Council wishes to achieve, and then let the operators, based on (for most) their extensive experience, resolve how to achieve those outcomes.

3.20 Discretionary conditions of particular concern include:

- (a) *A need to operate closed circuit television.* These systems can be costly to operate and maintain, and are simply unnecessary for every operator to install.
- (b) *Any specific restriction on the number of drinks able to be served in any one transaction.* It is efficient for one or two people in a group to buy drinks for the rest in their party. Alternatively, where table service is operated, one person might wish to buy everyone at the table a drink. To limit any one transaction to a few drinks only is unnecessary and unworkable. Operators already have a duty not to serve intoxicated persons, and should be left to make a judgement as to how they will meet that requirement.
- (c) *The number of security staff required to be on premises at any one time and their location.* That is a matter for the operator, who is best placed to judge how many staff are in fact needed. The Council does not have to pay for unnecessary staff, but seems happy to require them.
- (d) *Requiring staff to supervise any queue.* Is one person standing behind another in a queue? What if a queue is intermittent only? These are all operational matters best left to the operators themselves.
- (e) *One way door conditions.* As a preventative measure these policies are considered "purely symbolic"<sup>15</sup> and a number of studies have found no evidence that they are effective in reducing alcohol-related harm.<sup>16</sup> They do however have the

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<sup>15</sup> Described as such by Queensland criminologist, Professor Ross Homel of Griffith University, who has extensively researched one-way-door policies (The Age, 2008).

<sup>16</sup> These include an extensive study into alcohol-related nightlife crime in Australia, *Dealing with alcohol-related harm and the night-time economy* which compared the effectiveness of alcohol-related crime prevention measures introduced between 2005-2010 in New South Wales and Victoria. A KPMG assessment of Melbourne's three-month one-way-door trial (June 2008 to September 2008) found alcohol-related

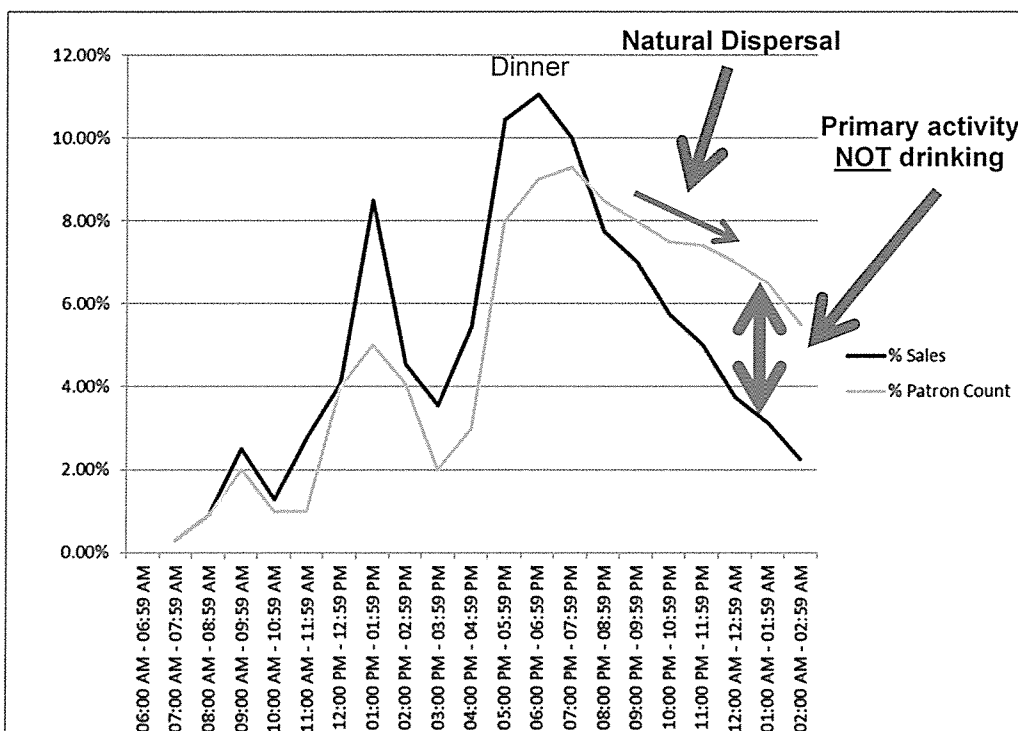
potential to significantly harm smaller bars and venues that trade earlier.

- 3.21 It is concerning that there is such a wide discretion with very few parameters defining which on the "discretionary" list should be included in conditions in any particular case. More certainty around the discretionary conditions will also help operators better understand what is expected by the Council to achieve "best practice".
- 3.22 Still in the chapter headed "discretionary conditions", is then a section on what appear to be expected as mandatory ("will appear") for late trading licences. While an "exemption" can be sought, that appears to be only in specific (undefined) circumstances.
- 3.23 Hospitality NZ is particularly concerned with any condition requiring the management of premises open after 2am to operate a 'wind down hour' protocol, whereby the lighting is turned up, the music turned down, and during this last hour the premises is open drinks cannot be purchased. This in effect results in a closing time of an hour earlier than the licensed hour for the premises. That is considered *ultra vires* to any licence "granted" to 3am, as it is a condition that derogates from the grant of the right to operate until 3am. In reality it would be a licence to 2am, with an hour to allow "drink-up" and clearance of the premises. Most premises already have in place wind down policies or have a natural "wind down" as people move on, and so to impose very draconian wind down policies through conditions that derogate from the specified licence hours is totally unreasonable. A long "wind down" period could also create a hoarding mentality where people look to "stockpile" drinks just prior to the close in service, so they can continue to drink until they have to leave.
- 3.24 The following two graphs illustrate the natural "wind down" effect that is seen, in premises that close at 3am as well as those that close at 6am:

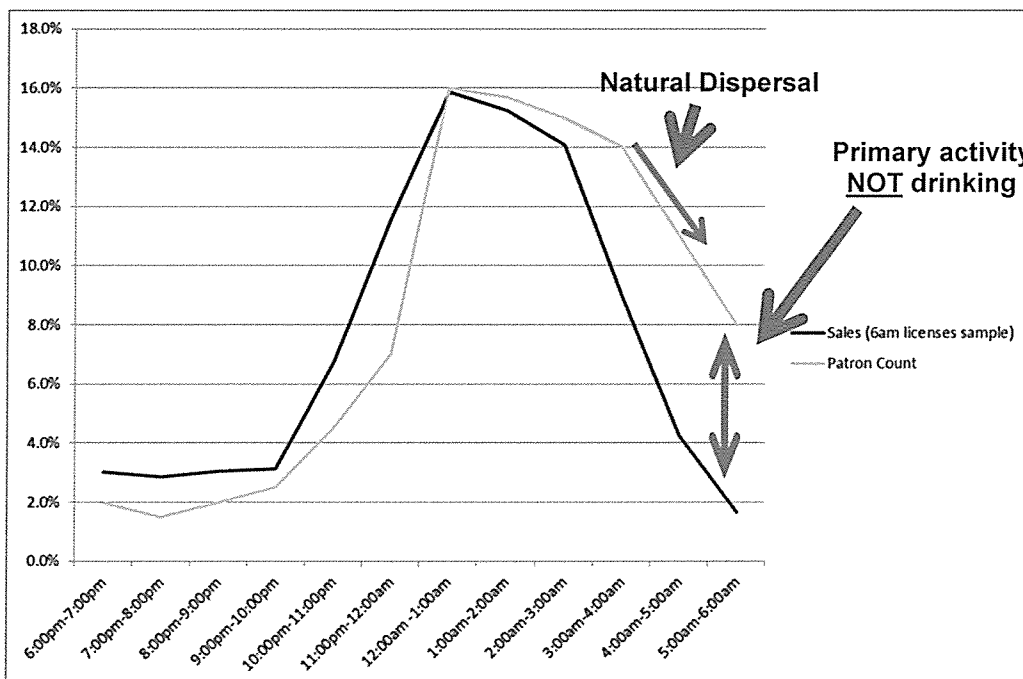
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presentations as a proportion of total hospital emergency presentations on Friday and Saturday nights actually increased during the temporary lockout period. Refer also to other sources in the attached *Fact v Fiction* document.

Graph 1: 3am CBD Premises Average Sales vs Patron Percentages<sup>17</sup>



Graph 2: 6am CBD Premises Average Sales vs Patron Percentages<sup>18</sup>



3.25 The graphs also illustrate that people are clearly staying out late, not primarily to drink, but for the wider entertainment and socialising (eg dancing, listening to music, bands/DJ etc).

<sup>17</sup>

Sample: Cambridge Hotel, Green Man, Old Bailey, Concrete, The Pub.

<sup>18</sup>

Sample: Sandwiches, San Fran Bath House, Mishmosh, Electric Ave, Good Luck.



- 3.26 The imposition of numerous (mostly unnecessary) conditions also creates issues for enforcement. The Council will need to significantly resource compliance with (mostly unnecessary) conditions, and will look to recover those costs from the operators. That is another burden on their business and potential viability.

#### **4. WHY THE PROPOSALS IN THE DRAFT LAP ARE UNREASONABLE OR UNSUPPORTED ON THE EVIDENCE**

##### **Pre loading /side loading**

- 4.1 The issue of pre loading and side loading are largely unrelated to the issue of how late on license premises can remain open, as those who pre and side load are likely to do so regardless of the closing times imposed. Pre loading and side loading are best addressed through personal responsibility, and focusing on problem individuals rather than by restricting the maximum opening hours of on license premises. Attached to this submission is an opinion addressing other options available to the Council to empower it to better manage people who misbehave in public under the influence of alcohol. The options include a bylaw, but also regulations and the promotion of a Local Bill. Providing the Council (or the Police) with the power to issue infringement notices (ie "instant fines") would be a key component of such an approach. That would let the Council target the people who cause the problem in a simple and efficient way. Another component could be the ability to ban (or "trespass") the worst offenders from specific places (for certain periods of time). The opinion also canvases other options, which should be seriously considered by the Council. The aim would be to minimise impacts on responsible members of the public, who are not causing a nuisance or "harm" to themselves or others, but to enable the Council to intervene in an efficient and effective way where people do make a nuisance of themselves.

##### **Late night activities in the central city**

- 4.2 Throughout the LAP and the supporting documentation there is an emphasis on the harm that arises from alcohol consumption after 2 am, in the central city.
- 4.3 It seems to be stated as fact that alcohol related harm increases the later consumption takes place. For example, the draft LAP states that "alcohol related harm is significantly increased during the early hours of the

morning. Factors stated as making late night trading riskier include pre loading and side loading."<sup>19</sup> The counterfactual, however, is that with earlier closing hours, pre and side loading will simply themselves occur earlier, with "problems" still likely to occur, but earlier in the night. That could in fact give rise to more incidents, given that more people are likely to still be around at that time.

4.4 A number of studies (seemingly overlooked by the Council) have been conducted in relation to the effect that closing times (particularly earlier blanket closing times) have on alcohol-related harm. These include:<sup>20</sup>

- (a) a UK report *Drinking and Public Disorder*<sup>21</sup> which researched links between alcohol and disorder in the UK, Europe and Scotland, and concluded that blanket closing times lead to 'peak density' or a concentration of behaviours which increased the likelihood of conflict and made policing more difficult;
- (b) a 2006 report by Greenaway and Conway in Auckland<sup>22</sup> which found that the common time for violent confrontations was around 3am when the majority of licensed premises close and all bar patrons are forced into the streets. These troubles would be exacerbated if all bars had the one set blanket closing time;
- (c) Another UK study, *Do flexible opening hours reduce violence? An assessment of a natural experiment in alcohol policy* assessed the effects of a move by the English and Welsh Governments to tackle violence prevention by removing restrictions on opening hours for alcohol outlets in 2005. That study focussed in Manchester, UK (from 2004-2008), and concluded that there was little evidence to show deregulation affected citywide violence rates;
- (d) London's Applied Criminology Centre also found that extending late-night trading hours actually reduced alcohol-related violence, binge drinking and disorder as patrons dispersed over a long time period.

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<sup>19</sup> The right mix - draft alcohol management strategy - pg 10. The assertion that preloading and side loading impacts upon the harm caused by late night trading is unfounded.

<sup>20</sup> Refer also to other sources in the attached Fact v Fiction document.

<sup>21</sup> Marsh, P. and Fox Kibby, K. (1992) *Drinking and Public Disorder*.

<sup>22</sup> Greenaway, S. Conway, K. (2006) Auckland Regional Community Action Project on Alcohol evaluation report. Final report.

- 4.5 All of these strongly suggest Council needs to reconsider the assumption that the later a bar is open, the more harm that results.
- 4.6 The draft LAP also refers to figures from the Police that 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.<sup>23</sup> Even assuming that trend is applicable to Wellington, shifting the closing hours forward may just mean those incidents occur earlier.
- 4.7 In any event, the data provided by the Police<sup>24</sup> paints a different picture, the time profile of all alcohol related offences indicates that offences peak at midnight and steadily drop off thereafter.<sup>25</sup> Hospitality NZ have made an Official Information Act to gather all relevant information held by the Police on this matter and has yet to receive any information/data that substantiates the "doubling" trend relied upon in the LAP, within the Wellington context. It is also important to understand not just the relative rates of offending in the different time periods. If there are very low occurrences in Wellington (say 1-2 a week) in the first time bracket, then overall that suggests that the regulatory environment is in fact working reasonably well and that more proportionate measures should be taken to achieve further gains. For example, real attention could be given to any "rogue" operators. Unfortunately, there are some in every industry.

#### **Supported initiatives**

- 4.8 Hospitality NZ supports the following initiatives:
- (a) Capital Host and increased industry focus on security, door staff, and working closer with Police.
  - (b) Better public transport options at night.
  - (c) More lighting in the CBD.
  - (d) More CCTV cameras in public spaces.
  - (e) Possible street entertainment.
  - (f) Possible food trucks late at night.

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<sup>23</sup> The right mix - Draft local alcohol policy - pg 12.

<sup>24</sup> The right mix - Alcohol management snapshot, figure 17 - pg 35.

<sup>25</sup> The right mix - Alcohol management snapshot - pg 35.

- (g) A chill out zone with water, food, transport information, medical assistance.
- (h) Greater enforcement of liquor bans.
- (i) Adoption of other legal options available to the Council to empower it to better manage people who misbehave in public under the influence of alcohol. The options include a bylaw, but also regulations and the promotion of a Local Bill which would allow instant fines and trespass (for limited periods of time) of the worst offenders. This is similar to the model applied in Melbourne.
- (j) Greater Police presence.

## **5. INADEQUACY OF ASSESSMENT/INFORMATION BASE**

### **Police Data**

- 5.1 The Police data is relied on heavily in the LAP and the supporting documentation to argue that later opening hours results in an escalation in alcohol related harm. We have referred to some of that information above already.
- 5.2 Hospitality NZ obtained, from the Council, by way of a LGOIMA request, the full information/data used provided by the Police. It is not as conclusive as the Council portrays. For example, the driving with excess blood alcohol table is not sufficiently robust to explain whether the offenders were present at an on license venues prior to being arrested.
- 5.3 The police data (including the material provided under the LGOIMA request) contains no empirical evidence that supports the statements or conclusions that alcohol related crime doubles every hour after 3am when on-licenses remain open in the Wellington region. The Police Alco-link data, which illustrates where offenders consumed their last drink prior to offending, is relied on heavily in the LAP (and supporting documentation) as indicative of the harm caused by on-license premises. However the limitations of the data are stated clearly in the Alcohol Management

Snapshot document, in that the last premise where alcohol was consumed may not necessarily be where the majority of drinking took place.<sup>26</sup>

- 5.4 In contrast to what is being portrayed in the LAP, the police data shows that the rate of offending has actually dropped significantly in the Wellington region. For instance, in 2010 there were a 130 recorded assaults in Te Aro, this has dropped significantly to 86 in 2012.<sup>27</sup> While the data has been used by the Council to illustrate an increase in assaults committed by strangers, this relative increase is a result of the total number of assaults dropping sharply while the number of stranger assaults has remained largely constant.
- 5.5 The paper on "risk based licensing fees" by the Ministry of Justice highlights the limitations of international studies that suggest longer opening hours results in higher alcohol related harm. The paper concedes that longer trading hours can also be positive as it allows for an individual to pace themselves over a longer period of time and prevents a large mass of patrons leaving a premises at closing time, which can cause public disorder and violence. This concession is notably absent from the draft LAP, and we expect that Councillors have not been made aware of this view from the Ministry of Justice paper.

### General

- 5.6 Our analysis of the information provided by the Council<sup>28</sup> indicates that the Council simply has not undertaken the level of assessment required to give it sufficient confidence that there will be a reduction in harm by restricting late night alcohol consumption.
- 5.7 Hospitality NZ's experience supports the statements made by the Chief Medical Officer that the issues stem from personal responsibility.
- 5.8 As stated above, the LAP's object is to reduce harm, however, we have seen no credible evidence that any harm resulting from later opening times will in fact be reduced by making operators close earlier.

## 6. THE MAJORITY VIEW AND INDIVIDUAL FREEDOM/PERSONAL RESPONSIBILITY

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<sup>26</sup> In the mix - Alcohol Management Snapshot - pg 35. In particular, this acknowledges that the Alco-link data are not official statistics given their well documented limitations.

<sup>27</sup> Wellington ED Assault Data

<sup>28</sup> LGOIMA request.

- 6.1 A survey, with 1189 respondents, commissioned by Hospitality NZ but independently undertaken, indicates that the vast majority of Wellingtonians enjoy and the central city entertainment on offer, and do not wish to change the licensing of well-run premises.<sup>29</sup> 90% agreed that the hospitality and entertainment scene is dynamic, vibrant and helps define the city's character. It is these views - of ordinary Wellingtonians - that the Council should be giving significant regard to. They do not perceive an unsafe environment, and do not want their individual freedom to choose to stay out late socialising curtailed.
- 6.2 Also important is the need for people to take personal responsibility for their actions. Individuals who misbehave should expect little sympathy and the Council should be looking to work with Police, the hospitality industry and others to identify troublemakers. Police and the Courts should be encouraged to take a dim view on alcohol related offences, and operators should be incentivised to identify any repeat offenders and exclude them from entry.
- 6.3 Such an approach would avoid the few irresponsible people from undermining the ability of law abiding citizens from being free to choose how they relax and entertain themselves late at night.

## **7. UNINTENDED ECONOMIC EFFECTS**

- 7.1 Most significant, perhaps, in Hospitality NZ's opinion, is the failure of the Council to seek to quantify the cost of its draft LAP to the industry, or at least parts of it.
- 7.2 In Wellington the late night economy is significant with \$41 million spent annually in the city on hospitality (including entertainment, food, night clubs, hotels and taverns) between the hours of 4am and 7am. This equates to an estimated \$11 million of wages paid to hospitality workers during those hours. The current licensing system in Wellington ensures that world class entertainment is provided to the residents and visitors to New Zealand's capital.
- 7.3 Were on license premises to close at 2am, as proposed by the LAP for those operators in the areas of the city outside the entertainment precinct,

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<sup>29</sup> Hospitality NZ surveyed 1189 respondents, most of whom were between the ages of 20 and 55. 89% of the respondents felt that there was no necessity to change the current regime.

there would be wide ranging detrimental economic effects. While premises in these areas may not presently remain open beyond 2am at all times, there are certain days of the year (for example during major sporting events such as the Sevens and State of Origin) when premises would lose substantial revenue as a result of the restrictive closing hours. It is obviously also more common for bars (including outside the entertainment zone) to stay open later on Friday and Saturday nights as well. There is a real risk of a "chilling effect", with patrons who might want to stay out after 2am (and undisturbed by any "wind down" period before 2am) simply avoiding those venues they know will close "early". Capturing customers is about providing an enjoyable experience for them. If they have a good night (extending into the "late" hours), then they are more likely to return again, including at earlier times. So the flow on effect will be more than simply the any direct lost revenue during (say) the 2am-3am period. To require at the same time more onerous management requirements (such as to staffing, etc) when many of those bars are naturally winding down at that period also imposes an additional costs. Overall, there could be business closures and/or job losses in the region of 400-500 people.

- 7.4 The Council's draft LAP is also problematic for competition reasons. At the most basic level it is unfair if a responsible operator offering (say) an upmarket destination cocktail bar experience but outside the entertainment zone cannot continue to trade after 3am (with little or no trouble ever experienced), while their competitors can continue to trade past that time in an area where inevitably there will be trouble. It effectively transfers the wealth from one operator to another, without good reason.
- 7.5 Without this information (let alone making some attempt to quantify the benefits), the Council cannot reasonably proceed. At the very least, it owes it to the ratepayers it is about to burden to look at the issues more closely before proceeding.

## **8. RELIEF SOUGHT**

- 8.1 The key relief sought is summarised at paragraph 1.4.
- 8.2 Hospitality NZ wishes to continue its dialogue with the Council and its individual Councillors. It is hopeful that a sensible solution can be agreed,

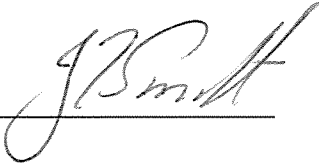
so that it can focus on the other matters of relevance to its industry, rather than have to pursue the adoption of a reasonable LAP for its members.

## 9. ATTACHMENTS

9.1 The following is attached to this submission:

- (a) An opinion on other options available to the Council to empower it to better manage people who misbehave in public under the influence of alcohol. The options include a bylaw, but also regulations and the promotion of a Local Bill.
- (b) The *Broken Windows* Article referred to in the above opinion.
- (c) The *Fact v Fiction* document.

On Behalf of Hospitality New Zealand Wellington Branch

  
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Jeremy Smith  
Branch President

2 August 2013

We wish to speak to our submission.



# Memorandum

To: Hospitality Association – Wellington Branch  
From: Jordan Williams  
Date: 31 July 2013  
Subject: Wellington City Council Draft Alcohol Policy

## Introduction

1. We have been asked to outline bylaw and legislative proposals the Wellington City Council could include in its local alcohol policy (“LAP”) to address behaviour that concerns residents. The intention would be to complement the legislative pre-occupation with supply restrictions, with focus on:
  - (a) Practical enforcement; and
  - (b) Drawing from historically effective provisions in the law.
2. We understand that the advice may be provided to the Council as part of its consultation on the draft LAP.

## Summary

3. It appears that the Council has failed to adequately consider the costs of the draft LAP and evaluate them against alternatives. In light of evidence that policy proposals more directly targeting the nuisance and policy aims are likely to be more efficient and effective, the Council is vulnerable to the policy being held invalid if it does not weigh the merits and comparative costs of the alternatives.
4. The Council’s draft LAP, if implemented, risks causing avoidable negative reactions and resentment from responsible Wellingtonians. The new restrictions will encroach on majority freedoms in an attempt to reduce bad behaviour of a small minority. The proposals, to micro-manage licenced suppliers, do not appear to have been considered as the law now requires, for relative effectiveness and cost efficiency, against alternative uses of Council powers, in particular directly targeting the unwanted behaviour.
5. The Hospitality Association propose that the Council promote proven historical legal measures focused at the behaviour of trouble makers.

6. As detailed below, we propose the Council consider new bylaws and a local parliamentary bill to give the Council and Wellington's Police the tools they need to maximise safety and security, as well as individual freedom and vibrancy in the city.

**Proposals to include in an LAP focused at behaviour rather than supply**

7. The Council's public opinion survey shows that 96% of Wellington residents believe that individuals bear a moderate or great deal of responsibility for addressing some of the harm related to excessive alcohol consumption.<sup>1</sup> Despite that, the Council proposals include little to serve the draft LAP "goal" of personal responsibility.
8. We recommend that the Council focus on the behaviours that make liquor a concern (crime, boorishness and other anti-social behaviour) and on the drinkers who exhibit the behaviours. Councillors could adopt a policy and bylaws to protect a vibrant Wellington entertainment scene, with zero tolerance of alcohol-fuelled nuisance.
9. Council could call upon Parliament to act on concerns about alcohol consumption and alcohol-fuelled nuisance. Parliament had little or no evidence of likely effectiveness in adding to controls over restaurants, bars and cafes. It did not consider the laws that had been more successful in our own past, or in other countries, that focus on the behaviour of those who offend others.
10. Wellington Council could represent Wellington residents by seeking from Parliament clear powers to ensure enforcement of offences that cause widespread public concern about alcohol. Non-enforcement effectively condones those behaviours. More control of supply in venues where behaviour is already controlled wastes additional community resources that could be deployed against alcohol fuelled nuisance more effectively.
11. The Council could achieve much within its existing bylaw making powers. It could go further by promoting a local bill targeting low level offending. Targeting alcohol-fuelled conduct is a natural promotion of personal responsibility.
12. A parliamentary bill sponsored by a council takes precedence over other parliamentary business every second Wednesday that the House is sitting. Local bills that targeted graffiti and prostitution attracted national attention.
13. Wellington could be a test case. Wellington-specific tools could be the Council's alternative to punitively targeting suppliers when communities demand 'action' on alcohol nuisance. It is consistent with the Council's aspirations for a dynamic central city – where residents and visitors are free to party, but must respect others and the law.
14. A preliminary example of such a local bill to implement some of the options below (appendix 2).

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<sup>1</sup> Refer to <http://wellington.govt.nz/~media/have-your-say/public-input/files/2013/02-alcohol-management-strategy/2013-01-alcohol-role.pdf>

### *New bylaws*

15. Some of the Council's objectives could be attempted by implementing bylaws. A New Zealand law already focused at a particular behaviour is no barrier to the Council passing a bylaw targeting the same matter. Section 14 of the Bylaws Act 1910 prevents invalidation as long as the bylaw is not repugnant to other New Zealand law. For example that could allow the Council to prohibit disorderly behaviour in areas covered by the existing public drinking bans<sup>2</sup> if Council found enforcement methods that are more simple and effective than those currently available to the Police.
16. To enforce bylaws, the Council is usually required to lay an information (i.e. bring a prosecution). There is an exception that allows a bylaw offence to be deemed an "infringement offence" under the LGA 2002 which has the effect of allowing the Council to issue infringement notices. For that classification, the Minister of Local Government must make applicable regulations.
17. We do not consider that bylaws alone would provide for effective late-night enforcement. For example, we understand that local drinking bans are considered to have been effective because of the Police powers to confiscate alcohol, and to arrest in relation to the bylaws. As such, new offences are unlikely to be effective if the Council must bear the cost of laying an information for every breach.

### *Local Bill: Potential Proposals*

18. As detailed in *appendix one*, the scope of current legal prohibitions is almost extensive enough to achieve the project's aims. The Bill proposed would reinforce a Council position of defending the current entertainment precincts with new, effective and low cost (or self financing) enforcement.
19. A bill would not require or commit the Council to perform any of the functions contained in the options below, nor would the powers necessarily be applicable to the whole of the City. They could, for example, be exercisable only where and when specified in a bylaw and/or geographic location. The bill's focus should therefore be on what tools the Council could need to ensure a safe and vibrant city, not what they actually decide to use at any time.

### *Infringement notices*

20. Infringement notices would be the key instrument of the proposal. An infringement notice mechanism for Council officers, contractors or the Police to apply to all or a selection of the nominated offences would:

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<sup>2</sup> Such bylaw would also fit within the general bylaw-making power of territorial authorities contained in section 145 of the LGA 2002 and the liquor-related provisions in section 147.

- (a) Allow them to issue infringement notices on reasonable cause to consider an offence has been committed;<sup>3</sup> and
  - (b) Grant them the power to detain those who fail to give a name and address on demand, or who give particulars that are reasonably believed to be false.<sup>4</sup>
21. The LGA 2002 provides for a fine up to \$5,000 for refusing to give information or knowingly misstating information requested by an enforcement officer, such as the person's name and address.<sup>5</sup> While that penalty is significant, it cannot be useful to underpin a late-night infringement fee regime as it only applies on summary conviction.
22. We think that a limited power of arrest is necessary for effective late-night crime prevention. Unlike for motor vehicle and parking offences, car registration details are not necessarily a sufficient channel to pursue offenders unconnected with vehicle use.
23. The Bill could seek temporary powers of arrest, similar to fisheries officers, when people refuse to provide council enforcement officers (such as "Walkwise" contractors) with the details necessary for issuing an infringement notice.<sup>6</sup>
24. The conditions may include:

<sup>3</sup> See for example s 38C(1) of the Summary Offences Act 1981: *Where a member of the Police observes a person committing an infringement offence, or has reasonable cause to believe such an offence is being or has been committed by that person, an infringement notice in respect of that offence may be served on that person.*

<sup>4</sup> See for example s 39(2) of the Summary Offences Act 1981: *Any constable, and all persons whom he calls to his assistance, may arrest and take into custody without a warrant any person who, within his view, does any act that the constable reasonably believes constitutes an offence against any of sections 17 to 20, 25, and 32 to 38 of this Act and who fails to give his name and address on demand, or gives any such particulars that the constable reasonably believes to be false.*

<sup>5</sup> Refer to sections 178, 229 and 242(2) of the LGA 2002.

<sup>6</sup> Section 203 of the Fisheries Act 1996 provides:

- (1) *For the purpose of the enforcement of this Act, a fishery officer may, if he or she believes on reasonable grounds that any person is offending against this Act, order that person to forthwith desist from offending.*
- (2) *For the purpose of the enforcement of this Act, a fishery officer may, at any reasonable time, if he or she believes on reasonable grounds that any person is offending or has committed an offence against this Act, request that person to supply to that fishery officer the person's full legal name, any other name by which the person is commonly known, and the person's date of birth, actual place of residence, and occupation.*
- (3) *If the fishery officer believes on reasonable grounds that any of the details supplied under subsection (2) are false or misleading, the fishery officer may request that person to supply to that fishery officer such verification of those details as it is reasonable in the circumstances to require the person to provide.*
- (4) *If any person continues to offend after being required under subsection (1) to desist, or refuses to comply with a request under subsection (2) or subsection (3), the fishery officer may arrest that person without warrant.*
- (5) *If a fishery officer arrests a person under subsection (4),—*
  - (a) *the fishery officer shall cause the person to be delivered into the custody of a constable as soon as practicable; and*
  - (b) *if the person so delivered into custody is issued with a summons pursuant to sections 28 and 30 of the Criminal Procedure Act 2011, the duties under section 31 of that Act must be carried out by a fishery officer and not a constable.*

- (a) The power being exercisable only where a person will not give their name, address, occupation and date of birth, or if the officer has reasonable cause to believe that the details given are misleading; and
  - (b) The arresting agent must deliver arrested persons to the custody of the Police as soon as practicable; or
  - (c) The arresting agent must deliver the arrested person to their home as soon as practicable.
25. Alternatively, the Bill could grant Police officers the power to issue infringement notices on the Council's behalf. This could be based on the existing powers of Police in relation to existing liquor bans.

*Reinstate offence of public drunkenness*

26. To simplify effective enforcement the Council could create a bylaw prohibiting public drunkenness. It could be imposed in selected areas.
27. The offence of "drunk in a public place" in section 41 of the Police Offences Act 1927 was repealed by the Summary Offences Act 1981. The offence, when it existed, simply provided that "*Every person found drunk in any public place*" committed an offence. More than three convictions for the offence within six months could lead to imprisonment for up to three months.<sup>7</sup>
28. This option gave Police power to target people causing problems.
29. Historically there were concerns about the subjectivity of assessments of drunkenness. These concerns are today easily met by supplementing a right for a person having received an infringement notice, to opt for a breath or blood alcohol test. In other words there are tools now that make it easier, not harder to protect against abuse of the otherwise wide power conferred by such a infringement regime, without losing its incentives to less anti-social behaviour.
30. A drunkenness offence is a more precise tool to target the problem for which liquor-bans are intended. It is unlikely to punish responsible members of the public, who drink responsibly.

*Trespass or "banning orders" for specified locations*

31. Banning orders applicable to entertainment areas are commonly used in the United Kingdom.<sup>8</sup> The conditions and contents of the orders vary and are often initiated by local authorities. They are often specific to geographic locations, times, and days.

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<sup>7</sup> At the introduction of the decimal currency in 1967 the section imposed a \$20 fine (in the first instance) on any person found drunk in any public place. Accounting for inflation this is equivalent to approximately \$313.

<sup>8</sup> For example banning orders under the Football (Disorder) Act 2000 (UK) and anti-social behaviour orders under s 37 of the Crime and Disorder Act 1998 (UK)

32. The Council may consider the option desirable to:
- (a) Use as an enforcement mechanism independently; or
  - (b) To enforce unpaid fines.
33. Council may consider that UK-type CBD curfews would be too difficult to enforce (for example because of the necessary exemptions for banned individuals who live in the CBD). If so, it could achieve similar results by seeking similar orders applicable only to private areas. This could be achieved by the Council promoting a bill that allowed bar owners in the city to trespass individuals from all of the private venues that had opted into the special regime.
34. We understand that the Hospitality Association is managing a similar system with its Nelson members. The local branch has been informed by the Police that it may be challenged as the law stands (specifically the serving of trespass notices for multiple premises).

#### *Drinking ban orders*

35. These are also common in the United Kingdom. The Violent Crime Reduction Act 2006 (UK) allows local authorities to apply for orders for “*any prohibition...which is necessary for the purpose of protecting other persons from criminal or disorderly conduct by the subject while he is under the influence of alcohol*”. An individual who breaches an order will face a fine of up to £2,500. The Home Office has labelled the power as providing a ‘short, sharp shock’ to the offending individual.<sup>9</sup>

#### *Public notices*

36. Public shaming was once common for drink driving convictions. The Council may seek express power in the proposed bill to publish the names of persons issued with infringement notices. If it is seen as embarrassing it will provide an inexpensive enforcement mechanism consistent with creating a law abiding culture and visible enforcement.

#### *Community service work*

37. The Council may wish to develop weekend work schemes such as clean ups or graffiti removal. These could enable the Council to give offenders a choice of penalty. These may be provided as an ‘instead of’ option for fines and/or public naming, especially for young people with little money, who wish to avoid a banning order or public shaming.

#### *Engaging public eyes and ears: conviction reward scheme*

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<sup>9</sup>In 2010 a 20-year-old was the first to suffer the full consequences of the new law with a district judge issuing a blanket alcohol ban across England and Wales, prohibiting her from entering any bar, pub or club or buying alcohol of any kind for the next two years. Source: <http://www.spiked-online.com/index.php/site/printable/8923/>

38. Citizen help in law enforcement is making a comeback. For example 'Crime Stoppers' is now operating in New Zealand after its proven success in the United Kingdom.
39. A conviction reward scheme could encourage members of the public to provide evidence that supports infringement ticketing or prosecution for specified offences. The purpose would be to encourage citizen support to officers using the infringement powers. For example, citizens might go into a draw for a substantial prize, or get to nominate a charity to receive a portion of infringement penalties collected. They could be encouraged to collect cell phone photograph evidence or provide a statement and if necessary give evidence in court.
40. Rewards have generally fallen into disuse in New Zealand though they are commonly used overseas by local authorities. They are consistent with the aims above. Wellingtonians become participating stakeholders in law enforcement. A public campaign of rewards for information focuses the eyes and ears of the whole community in upholding the law and respecting it.

#### **New purpose of local government**

41. Since the 2012 amendments, section 10 of the Local Government Act 2002 ("LGA 2002") states:

##### ***Purpose of local government***

*(1) The purpose of local government is—*

*(a) to enable democratic local decision-making and action by, and on behalf of, communities; and*

*(b) to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.*

*(2) In this Act, **good-quality**, in relation to ... performance of regulatory functions, means ... performance that are—*

*(a) efficient; and*

*(b) effective; and*

*(c) appropriate to present and anticipated future circumstances.]*

*[emphasis is ours]*

42. Section 10 of the LGA 2002 states that the Council's "role" is to "give effect" to the above purpose. The same role applies to the Council in enacting the LAP under the Sale and Supplier of Alcohol Act 2012.<sup>10</sup>

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<sup>10</sup> Section 13 of the LGA 2002:

##### ***Performance of functions under other enactments***

*Sections 10 and 12(2) apply to a local authority performing a function under another enactment to the extent that the application of those provisions is not inconsistent with the other enactment.*

43. As yet the Courts have not reviewed a council's performance of a regulatory function against the new "good-quality" criteria. We have examined the range of meanings they might give to the relevant words. We think they require Councils to act as rational maximisers (minimising costs while maximising benefits) basing decisions wherever practical on evidence tested reasoning. In our opinion where a Council has failed to perform that "role", Courts may invalidate the offending decision.
44. The usual meaning of "effective" is:
- 1** a having a definite or desired effect. **b** efficient. **2** powerful in visual, emotive, etc. effect; impressive. **3** **a** actual; existing in fact rather than officially or theoretically (*took effective control in their absence*). **b** actually usable; realisable; equivalent in its effect (*effective money; effective demand*). ...<sup>11</sup>
45. "Efficient" is defined as:
- 1** productive with minimum waste or effort. ...<sup>12</sup>
46. The terms "efficient" and "effective" require the Council to enact an LAP that will have the desired effect at the least cost. The Council is unlikely to have achieved that if it has not turned its mind to alternative options, or at least assessed the costs of the draft LAP's proposals, against less costly ways to pursue the same objectives. The material on the Council's website does not appear to show the Council has engaged in an objective evidence-based analysis that establishes or demonstrates capacity to establish that it is pursuing the community's objectives to secure the greatest effect at least cost.
47. We understand that the existing proposals will cost the Hospitality Association's Wellington members substantial amounts, collectively and eventually individually. They may also reduce the private benefit of leaving it to patrons to decide when they want to patronise licensed premises. We have seen no attempt by the Council to estimate the benefits foregone by law-abiding patrons, but it is proper to assume they exist.
48. If the Council has not made efforts to objectively quantify or evaluate the costs and benefits the Council is vulnerable to judicial review.
49. The proposals are also vulnerable because the connection between the draft LAPs restrictions on licenced premises, and the problems identified being largely unsubstantiated. For example, the Council has identified "pre-loading" and "side-loading" as significant contributors to the problem of drunkenness, but the draft LAP does little to address those. Instead it focuses on regulating suppliers, particularly licenced venues. Even if there was evidence to support concern about

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<sup>11</sup> The Concise Oxford Dictionary (9<sup>th</sup> Ed.)

<sup>12</sup> *ibid*



super-market supply, there seems to be no cost:benefit analysis to justify more controls and discretion powers over licensed premises.

50. Most of the Council's identified concerns specifically relate to personal behaviours yet the Council is not specifically targeting those behaviours. Despite most alcohol fuelled nuisance occurring in public places, the Council's draft LAP targets bar and retail operators who have no authority to police public spaces. The Council may consider that there is a causal relationship between drinking in licenced premises and alcohol fuelled nuisance, however the Council itself has identified pre and side-loading as significant drivers of alcohol fuelled nuisance in public spaced. Targeting the hospitality industry cannot address these behaviours. Therefore we recommend the additional measures set out in this memo, as supplementary measures to achieve the Council's objectives.
51. There is a considerable body of knowledge on the effectiveness of combatting the problems associated with alcohol. The Council may have assembled information comparing, for example research on urban design, security and law enforcement, lighting etc. with limiting hours of bar operation. If so, it has not been referred to in what we have seen of Council material.
52. We wonder whether instead the Council has relied on *perceived* effectiveness, and promoted regulatory measures to demonstrate concern, rather than making an assessment on and responding to fact-based evidence derived from behavioural research. Public opinion surveys may elicit measures of concern, but they are not a good guide to the trade-offs between cost and effectiveness. In an area where there has been significant disciplined scientific and economic study, on review a court may find the Council has failed to perform its legal obligations. If so the Court may invalidate decisions and relevant bylaws.

### **Challenges**

53. We note that the Council could be concerned that it will need more research based evidence of the kind apparently lacking for the existing proposals. You may need to help supply such research in the time available.
54. We understand that the Police may have an interest in more restricted closing times, to reduce their rostered hours requirements. Other than the Police, and the people who are inclined toward alcohol restrictions of any kind, there may be few parties with a material interest in challenging the proposals in this memorandum. Many will regard them as self-evident practicality. But we recommend nevertheless that you help the Council with evidence of the effectiveness of personal responsibility law enforcement before the relevant by-laws are passed.

### **Support in changing the norms for what is acceptable**

55. The menu of suggestions relies on the premise that a culture of respect for people and property in the city is more likely to flow from small, certain, and instant sanctions than from penalties that could be more severe but delayed and uncertain.

There is clear research showing that crime rates are more readily influenced by the speed and certainty of sanction than the severity of punishment.

56. Evidence suggests that an enforcement approach to crime-fighting can change the rule observance culture within a city. That may be easier than changing a drinking culture. The theory holds that by enforcing minor breaches of law, societies proclaim that a location is ordered and governed by norms. For example, the Hospitality Association may wish to draw the Council's attention to the often cited Broken Windows Theory. The original article the theory is attributed to was first published in 1982 in the Atlantic Monthly. For convenience, the article is appended.
57. The Council can design and implement an enforcement regime for low-level crimes that is practical, effective, visible and targeted at those causing harm. It would largely avoid the difficulties of current liquor ban bylaws, where:
  - (a) Few fines are imposed (due to the high costs of prosecution);
  - (b) Court delay cause many prosecutions to be abandoned; and
  - (c) Successful prosecutions result in small average fines of \$230<sup>13</sup> (despite the maximum penalty for breaches being \$20,000)<sup>14</sup>.
58. The proposals are based on proven criminological theory. They depart from the existing justice system approach only in the sense that they were the dominant model historically but have fallen into disuse. They embody only small changes to legislation targeted at minor offending.

Jordan Williams  
Wellington

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<sup>13</sup> New Zealand Law Commission *A list of Policy Options: Issues Paper on the Sale of Liquor Project* Published July 2009.

<sup>14</sup> Section 242 Local Government Act 2002.

Appendix One: Current Legal Framework

Current Infringement Offences

Offence	Legislation	Maximum infringement notice	Enforcement by
Drinking in public place (under the age of 18 years, drinking or has in control liquor for drinking, while not accompanied by his or her parent or legal guardian).	Ss. 38-38E Summary Offences Act 1981.	\$200.*	Police only.
Littering	Ss. 13 & 14 Litter Act 1979.	\$400.*	Police and Litter Control Officers appointed by public authorities.
Purchasing of liquor by minors	S 162 – 162D Sale of Liquor Act 1989	\$500.*	Police only.
Minors in restricted areas or supervised areas	S 162A – 163 Sale of Liquor Act 1989	\$500.*	Police only.

\* Maximum infringement notice, not maximum penalty.

### Current Non-Infringement Offences

Offence	Legislation	Maximum Penalty
Excreting in public place; Billsticking; Throwing stones; Setting off or throwing fireworks; Lighting fires (to structure or vegetation)	Ss. 32; 33; 34; 35; 36 Summary Offences Act 1981.	\$200
Disorderly behaviour	S. 3 Summary Offences Act 1981.	3 months imprisonment or \$2,000 fine.
Offensive behaviour or language	S. 4 Summary Offences Act 1981.	\$1,000 fine.
Disorderly assembly (3 or more)	S. 5A Summary Offences Act 1981 (requires warning by a constable to disperse).	3 months imprisonment or \$2,000 fine.
Fighting in public place	S. 7 Summary Offences Act 1981.	\$1000 fine.
Wilful damage	S. 11 Summary Offences Act 1981.	3 months imprisonment or \$2,000 fine.
Graffiti vandalism, tagging, defacing, etc	S. 11A Summary Offences Act 1981.	Community based sentence, \$2,000 fine.
Possession of graffiti implements	S. 11B Summary Offences Act 1981.	Community work or \$500 fine
Intimidation	S. 21 Summary Offences Act 1981.	3 months imprisonment or \$2,000 fine.
Indecent exposure	S. 27 Summary Offences Act 1981.	3 months or \$2,000 fine

## Appendix Two: Preliminary Draft Bill

[[                    ]; [                    ]]

### [                    ] *City Council (Drunken Offensiveness and Safer Streets)* *Bill*

Local Bill

[ ]—1

#### ***Explanatory Note***

##### **General Policy Statement**

This Bill enables the Wellington City Council (“the Council”) to ensure the effective use of enforcement mechanisms under the Summary Offences Act 1981. It allows designated Officers to issue infringement notices and grants them limited power of arrest.

The policy objectives of the Bill are:

- To enable the Council to become a partner with the Police, and Wellington citizens in advancing a safer and vibrant Wellington entertainment district;
- To provide practical, prompt and obvious responses to offensive, intimidating and antisocial behaviour;
- To allow the Council to enforce penalties for low level alcohol fuelled nuisance;
- To provide varied sanctions for the Council to apply without additional Court or Police resources and without being stymied by their delays or their alternative priorities;
- To establish a culture within Wellington city where punishment for alcohol related offending is not necessarily severe but is certain and prompt; and

The Local Government Act 2002 allows for the Council to issue infringement notices for certain bylaws. The Bill increases the scope of the offences the Council can issue notices for to include infringement offences contained in the Summary Offences Act 1981.

The Bill reinstates and defines the offence of public drunkenness and allows for infringement notices to be issued by Police and designated Officers.

#### **Clause by clause analysis**

*Clause 5* grants the Council powers to issue infringement notices for certain infringement offences under the Summary Offences Act 1981.

*Clause 6* allows the Council to specify for two levels of infringement notice penalty for each offence, so that designated Officers may exercise limited discretion as to the severity of the offence in the circumstances.

*Clause 7* requires persons requested by designated Officers to provide their name, address, occupation, and date of birth. The clause allows designated Officers to require evidence of

these details if they have any reason to suspect that the information provided is wrong or misleading. It draws on similar powers of Fisheries Officers under the Fisheries Act 1996.

*Clause 8* allows designated Officers to arrest when:

- details or evidence required under clause 6 have not been provided; or
- an offender warned to desist from committing an infringement offence, continues to do so; or
- otherwise for the safety of the person being arrested or any other person.

*Clause 9* requires that designated Officers cause persons arrested to be delivered into the custody of a member of the Police as soon as practicable.

*Clause 10* creates a new offence of public drunkenness and sets the maximum fine. The clause allows the Council to define places and time within Wellington where the offence applies.

*Clause 11* defines banning orders and allows the Council to issue banning orders applicable to individual members of the public to specified areas between 9pm and 6am and/or licensed premises within Wellington city if infringement fines are not paid within 28 days of issue. The Clause lists permissible breaches of orders for reasons of employment, transit or for accommodation within the area of the ban. The clause sets the maximum fine for breach.

*Clause 12* approves the Council rewarding members of the public for information leading to conviction or fines under this Act.

*Clause 13* approves the publication of names and photographs of persons issued banning orders or whom have overdue infringement offences under this Act, notwithstanding any other Act.

*Clause 14* limits the liability of the Council and designated Officers acting in good faith exercising the powers under this Act.

## **Regulatory impact statement**

### *Executive summary*

*[to be completed]*

### *Adequacy statement*

*[to be completed]*

### *Status quo and problem*

Liquor bans and legislative proposals focused on the supply of alcohol do not directly address the concerns of the harms commonly associated with alcohol consumption. These include damage to public property; public urination; threatening and offensive behaviour and public fighting. These problems and other low level offences may not always be enforced due to constrained resources by Police and the costs of court prosecution.

### *Objectives*

The central objective is to provide tools for the Council to ensure that low level offending is addressed in Wellington. The Council aims to achieve a culture of respect for the law and safety for the public at times when alcohol is consumed.

### *Alternative options*

Alternative options include:

- Increased resources for the Police;
- Fast tracking for Court prosecutions;
- Higher penalties for low level criminal offences; or
- Mandatory sentencing provisions.

### *Preferred option*

The Council believes that the most effective mechanism to create a safer city is to address low level crime with instant and certain punishment mechanisms. This is chosen over an alternative of harsher but more uncertain and delayed punishment. Infringement notices are good tools for this as they avoid the need for Court hearings and are already effective for local bodies enforcing rules under other legislation.

### *Implementation and review*

*[to be completed]*

### *Consultation*

*[to be completed]*

*Wellington City Council (Drunken Offensiveness and Safer Streets)  
Bill*

Local Bill

[ ]—1

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## Broken Windows

THE POLICE AND NEIGHBORHOOD SAFETY

By George L. Kelling

In the mid-1970s The State of New Jersey announced a "Safe and Clean Neighborhoods Program," designed to improve the quality of community life in twenty-eight cities. As part of that program, the state provided money to help cities take police officers out of their patrol cars and assign them to walking beats. The governor and other state officials were enthusiastic about using foot patrol as a way of cutting crime, but many police chiefs were skeptical. Foot patrol, in their eyes, had been pretty much discredited. It reduced the mobility of the police, who thus had difficulty responding to citizen calls for service, and it weakened headquarters control over patrol officers.

Many police officers also disliked foot patrol, but for different reasons: it was hard work, it kept them outside on cold, rainy nights, and it reduced their chances for making a "good pinch." In some departments, assigning officers to foot patrol had been used as a form of punishment. And academic experts on policing doubted that foot patrol would have any impact on crime rates; it was, in the opinion of most, little more than a sop to public opinion. But since the state was paying for it, the local authorities were willing to go along.

Five years after the program started, the Police Foundation, in Washington, D.C., published an evaluation of the foot-patrol project. Based on its analysis of a carefully controlled experiment carried out chiefly in Newark, the foundation concluded, to the surprise of hardly anyone, that foot patrol had not reduced crime rates. But residents of the foot patrolled neighborhoods seemed to feel more secure than persons in other areas, tended to believe that crime had been reduced, and seemed to take fewer steps to protect themselves from crime (staying at home with the doors locked, for example). Moreover, citizens in the foot-patrol areas had a more favorable opinion of the police than did those living elsewhere. And officers walking beats had higher morale, greater job satisfaction, and a more favorable attitude toward citizens in their neighborhoods than did officers assigned to patrol cars.

These findings may be taken as evidence that the skeptics were right- foot patrol has no effect on crime; it merely fools the citizens into thinking that they are safer. But in our view, and in the view of the authors of the Police Foundation study (of whom Kelling was one), the citizens of Newark were not fooled at all. They knew what the foot-patrol officers were doing, they knew it was different from what

motorized officers do, and they knew that having officers walk beats did in fact make their neighborhoods safer.

But how can a neighborhood be "safer" when the crime rate has not gone down—in fact, may have gone up? Finding the answer requires first that we understand what most often frightens people in public places. Many citizens, of course, are primarily frightened by crime, especially crime involving a sudden, violent attack by a stranger. This risk is very real, in Newark as in many large cities. But we tend to overlook another source of fear—the fear of being bothered by disorderly people. Not violent people, nor, necessarily, criminals, but disreputable or obstreperous or unpredictable people: panhandlers, drunks, addicts, rowdy teenagers, prostitutes, loiterers, the mentally disturbed.

What foot-patrol officers did was to elevate, to the extent they could, the level of public order in these neighborhoods. Though the neighborhoods were predominantly black and the foot patrolmen were mostly white, this "order-maintenance" function of the police was performed to the general satisfaction of both parties.

One of us (Kelling) spent many hours walking with Newark foot-patrol officers to see how they defined "order" and what they did to maintain it. One beat was typical: a busy but dilapidated area in the heart of Newark, with many abandoned buildings, marginal shops (several of which prominently displayed knives and straight-edged razors in their windows), one large department store, and, most important, a train station and several major bus stops. Though the area was run-down, its streets were filled with people, because it was a major transportation center. The good order of this area was important not only to those who lived and worked there but also to many others, who had to move through it on their way home, to supermarkets, or to factories.

The people on the street were primarily black; the officer who walked the street was white. The people were made up of "regulars" and "strangers." Regulars included both "decent folk" and some drunks and derelicts who were always there but who "knew their place." Strangers were, well, strangers, and viewed suspiciously, sometimes apprehensively. The officer—call him Kelly—knew who the regulars were, and they knew him. As he saw his job, he was to keep an eye on strangers, and make certain that the disreputable regulars observed some informal but widely understood rules. Drunks and addicts could sit on the stoops, but could not lie down. People could drink on side streets, but not at the main intersection. Bottles had to be in paper bags. Talking to, bothering, or begging from people waiting at the bus stop was strictly forbidden. If a dispute erupted between a businessman and a customer, the businessman was assumed to be right, especially if the customer was a stranger. If a stranger loitered, Kelly would ask him if he had any means of support and what his business was; if he gave unsatisfactory answers, he was sent on his way. Persons who broke the informal rules, especially those who bothered people waiting at bus stops, were arrested for vagrancy. Noisy teenagers were told to keep quiet.

These rules were defined and enforced in collaboration with the "regulars" on the street. Another neighborhood might have different rules, but these, everybody understood, were the rules for *this* neighborhood. If someone violated them, the regulars not only turned to Kelly for help but also ridiculed the violator. Sometimes what Kelly did could be described as "enforcing the law," but just as often it involved taking informal or extralegal steps to help protect what the neighborhood had decided was the appropriate level of public order. Some of the things he did probably would not withstand a

legal challenge.

A determined skeptic might acknowledge that a skilled foot-patrol officer can maintain order but still insist that this sort of "order" has little to do with the real sources of community fear—that is, with violent crime. To a degree, that is true. But two things must be borne in mind. First, outside observers should not assume that they know how much of the anxiety now endemic in many big-city neighborhoods stems from a fear of "real" crime and how much from a sense that the street is disorderly, a source of distasteful, worrisome encounters. The people of Newark, to judge from their behavior and their remarks to interviewers, apparently assign a high value to public order, and feel relieved and reassured when the police help them maintain that order.

Second, at the community level, disorder and crime are usually inextricably linked, in a kind of developmental sequence. Social psychologists and police officers tend to agree that if a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken. This is as true in nice neighborhoods as in rundown ones. Window-breaking does not necessarily occur on a large scale because some areas are inhabited by determined window-breakers whereas others are populated by window-lovers; rather, one unrepaired broken window is a signal that no one cares, and so breaking more windows costs nothing. (It has always been fun.)

Philip Zimbardo, a Stanford psychologist, reported in 1969 on some experiments testing the broken-window theory. He arranged to have an automobile without license plates parked with its hood up on a street in the Bronx and a comparable automobile on a street in Palo Alto, California. The car in the Bronx was attacked by "vandals" within ten minutes of its "abandonment." The first to arrive were a family—father, mother, and young son—who removed the radiator and battery. Within twenty-four hours, virtually everything of value had been removed. Then random destruction began—windows were smashed, parts torn off, upholstery ripped. Children began to use the car as a playground. Most of the adult "vandals" were well-dressed, apparently clean-cut whites. The car in Palo Alto sat untouched for more than a week. Then Zimbardo smashed part of it with a sledgehammer. Soon, passersby were joining in. Within a few hours, the car had been turned upside down and utterly destroyed. Again, the "vandals" appeared to be primarily respectable whites.

Untended property becomes fair game for people out for fun or plunder and even for people who ordinarily would not dream of doing such things and who probably consider themselves law-abiding. Because of the nature of community life in the Bronx—its anonymity, the frequency with which cars are abandoned and things are stolen or broken, the past experience of "no one caring"—vandalism begins much more quickly than it does in staid Palo Alto, where people have come to believe that private possessions are cared for, and that mischievous behavior is costly. But vandalism can occur anywhere once communal barriers—the sense of mutual regard and the obligations of civility—are lowered by actions that seem to signal that "no one cares."

We suggest that "untended" behavior also leads to the breakdown of community controls. A stable neighborhood of families who care for their homes, mind each other's children, and confidently frown on unwanted intruders can change, in a few years or even a few months, to an inhospitable and frightening jungle. A piece of property is abandoned, weeds grow up, a window is smashed. Adults stop scolding rowdy children; the children, emboldened, become more rowdy. Families move out, unattached adults move in. Teenagers gather in front of the corner store. The merchant asks them to move; they refuse.

Fights occur. Litter accumulates. People start drinking in front of the grocery; in time, an inebriate slumps to the sidewalk and is allowed to sleep it off. Pedestrians are approached by panhandlers.

At this point it is not inevitable that serious crime will flourish or violent attacks on strangers will occur. But many residents will think that crime, especially violent crime, is on the rise, and they will modify their behavior accordingly. They will use the streets less often, and when on the streets will stay apart from their fellows, moving with averted eyes, silent lips, and hurried steps. "Don't get involved." For some residents, this growing atomization will matter little, because the neighborhood is not their "home" but "the place where they live." Their interests are elsewhere; they are cosmopolitans. But it will matter greatly to other people, whose lives derive meaning and satisfaction from local attachments rather than worldly involvement; for them, the neighborhood will cease to exist except for a few reliable friends whom they arrange to meet.

Such an area is vulnerable to criminal invasion. Though it is not inevitable, it is more likely that here, rather than in places where people are confident they can regulate public behavior by informal controls, drugs will change hands, prostitutes will solicit, and cars will be stripped. That the drunks will be robbed by boys who do it as a lark, and the prostitutes' customers will be robbed by men who do it purposefully and perhaps violently. That muggings will occur.

Among those who often find it difficult to move away from this are the elderly. Surveys of citizens suggest that the elderly are much less likely to be the victims of crime than younger persons, and some have inferred from this that the well-known fear of crime voiced by the elderly is an exaggeration: perhaps we ought not to design special programs to protect older persons; perhaps we should even try to talk them out of their mistaken fears. This argument misses the point. The prospect of a confrontation with an obstreperous teenager or a drunken panhandler can be as fear-inducing for defenseless persons as the prospect of meeting an actual robber; indeed, to a defenseless person, the two kinds of confrontation are often indistinguishable. Moreover, the lower rate at which the elderly are victimized is a measure of the steps they have already taken—chiefly, staying behind locked doors—to minimize the risks they face. Young men are more frequently attacked than older women, not because they are easier or more lucrative targets but because they are on the streets more.

Nor is the connection between disorderliness and fear made only by the elderly. Susan Estrich, of the Harvard Law School, has recently gathered together a number of surveys on the sources of public fear. One, done in Portland, Oregon, indicated that three fourths of the adults interviewed cross to the other side of a street when they see a gang of teenagers; another survey, in Baltimore, discovered that nearly half would cross the street to avoid even a single strange youth. When an interviewer asked people in a housing project where the most dangerous spot was, they mentioned a place where young persons gathered to drink and play music, despite the fact that not a single crime had occurred there. In Boston public housing projects, the greatest fear was expressed by persons living in the buildings where disorderliness and incivility, not crime, were the greatest. Knowing this helps one understand the significance of such otherwise harmless displays as subway graffiti. As Nathan Glazer has written, the proliferation of graffiti, even when not obscene, confronts the subway rider with the inescapable knowledge that the environment he must endure for an hour or more a day is uncontrolled and uncontrollable, and that anyone can invade it to do whatever damage and mischief the mind suggests."

In response to fear people avoid one another, weakening controls. Sometimes they call the police. Patrol

cars arrive, an occasional arrest occurs but crime continues and disorder is not abated. Citizens complain to the police chief, but he explains that his department is low on personnel and that the courts do not punish petty or first-time offenders. To the residents, the police who arrive in squad cars are either ineffective or uncaring: to the police, the residents are animals who deserve each other. The citizens may soon stop calling the police, because "they can't do anything."

The process we call urban decay has occurred for centuries in every city. But what is happening today is different in at least two important respects. First, in the period before, say, World War II, city dwellers—because of money costs, transportation difficulties, familial and church connections—could rarely move away from neighborhood problems. When movement did occur, it tended to be along public-transit routes. Now mobility has become exceptionally easy for all but the poorest or those who are blocked by racial prejudice. Earlier crime waves had a kind of built-in self-correcting mechanism: the determination of a neighborhood or community to reassert control over its turf. Areas in Chicago, New York, and Boston would experience crime and gang wars, and then normalcy would return, as the families for whom no alternative residences were possible reclaimed their authority over the streets.

Second, the police in this earlier period assisted in that reassertion of authority by acting, sometimes violently, on behalf of the community. Young toughs were roughed up, people were arrested "on suspicion" or for vagrancy, and prostitutes and petty thieves were routed. "Rights" were something enjoyed by decent folk, and perhaps also by the serious professional criminal, who avoided violence and could afford a lawyer.

This pattern of policing was not an aberration or the result of occasional excess. From the earliest days of the nation, the police function was seen primarily as that of a night watchman: to maintain order against the chief threats to order—fire, wild animals, and disreputable behavior. Solving crimes was viewed not as a police responsibility but as a private one. In the March, 1969, Atlantic, one of us (Wilson) wrote a brief account of how the police role had slowly changed from maintaining order to fighting crimes. The change began with the creation of private detectives (often ex-criminals), who worked on a contingency-fee basis for individuals who had suffered losses. In time, the detectives were absorbed in municipal agencies and paid a regular salary simultaneously, the responsibility for prosecuting thieves was shifted from the aggrieved private citizen to the professional prosecutor. This process was not complete in most places until the twentieth century.

In the 1960s, when urban riots were a major problem, social scientists began to explore carefully the order maintenance function of the police, and to suggest ways of improving it—not to make streets safer (its original function) but to reduce the incidence of mass violence. Order maintenance became, to a degree, coterminous with "community relations." But, as the crime wave that began in the early 1960s continued without abatement throughout the decade and into the 1970s, attention shifted to the role of the police as crime-fighters. Studies of police behavior ceased, by and large, to be accounts of the order-maintenance function and became, instead, efforts to propose and test ways whereby the police could solve more crimes, make more arrests, and gather better evidence. If these things could be done, social scientists assumed, citizens would be less fearful.

A great deal was accomplished during this transition, as both police chiefs and outside experts emphasized the crime-fighting function in their plans, in the allocation of resources, and in deployment of personnel. The police may well have become better crime-fighters as a result. And doubtless they

remained aware of their responsibility for order. But the link between order-maintenance and crime-prevention, so obvious to earlier generations, was forgotten.

That link is similar to the process whereby one broken window becomes many. The citizen who fears the ill-smelling drunk, the rowdy teenager, or the importuning beggar is not merely expressing his distaste for unseemly behavior; he is also giving voice to a bit of folk wisdom that happens to be a correct generalization—namely, that serious street crime flourishes in areas in which disorderly behavior goes unchecked. The unchecked panhandler is, in effect, the first broken window. Muggers and robbers, whether opportunistic or professional, believe they reduce their chances of being caught or even identified if they operate on streets where potential victims are already intimidated by prevailing conditions. If the neighborhood cannot keep a bothersome panhandler from annoying passersby, the thief may reason, it is even less likely to call the police to identify a potential mugger or to interfere if the mugging actually takes place.

Some police administrators concede that this process occurs, but argue that motorized-patrol officers can deal with it as effectively as foot patrol officers. We are not so sure. In theory, an officer in a squad car can observe as much as an officer on foot; in theory, the former can talk to as many people as the latter. But the reality of police-citizen encounters is powerfully altered by the automobile. An officer on foot cannot separate himself from the street people; if he is approached, only his uniform and his personality can help him manage whatever is about to happen. And he can never be certain what that will be—a request for directions, a plea for help, an angry denunciation, a teasing remark, a confused babble, a threatening gesture.

In a car, an officer is more likely to deal with street people by rolling down the window and looking at them. The door and the window exclude the approaching citizen; they are a barrier. Some officers take advantage of this barrier, perhaps unconsciously, by acting differently if in the car than they would on foot. We have seen this countless times. The police car pulls up to a corner where teenagers are gathered. The window is rolled down. The officer stares at the youths. They stare back. The officer says to one, "C'mere." He saunters over, conveying to his friends by his elaborately casual style the idea that he is not intimidated by authority. What's your name?" "Chuck." "Chuck who?" "Chuck Jones." "What'ya doing, Chuck?" "Nothin'." "Got a P.O. [parole officer]?" "Nah." "Sure?" "Yeah." "Stay out of trouble, Chuckie." Meanwhile, the other boys laugh and exchange comments among themselves, probably at the officer's expense. The officer stares harder. He cannot be certain what is being said, nor can he join in and, by displaying his own skill at street banter, prove that he cannot be "put down." In the process, the officer has learned almost nothing, and the boys have decided the officer is an alien force who can safely be disregarded, even mocked.

Our experience is that most citizens like to talk to a police officer. Such exchanges give them a sense of importance, provide them with the basis for gossip, and allow them to explain to the authorities what is worrying them (whereby they gain a modest but significant sense of having "done something" about the problem). You approach a person on foot more easily, and talk to him more readily, than you do a person in a car. Moreover, you can more easily retain some anonymity if you draw an officer aside for a private chat. Suppose you want to pass on a tip about who is stealing handbags, or who offered to sell you a stolen TV. In the inner city, the culprit, in all likelihood, lives nearby. To walk up to a marked patrol car and lean in the window is to convey a visible signal that you are a "fink."

The essence of the police role in maintaining order is to reinforce the informal control mechanisms of the community itself. The police cannot, without committing extraordinary resources, provide a substitute for that informal control. On the other hand, to reinforce those natural forces the police must accommodate them. And therein lies the problem.

Should police activity on the street be shaped, in important ways, by the standards of the neighborhood rather than by the rules of the state? Over the past two decades, the shift of police from order-maintenance to law enforcement has brought them increasingly under the influence of legal restrictions, provoked by media complaints and enforced by court decisions and departmental orders. As a consequence, the order maintenance functions of the police are now governed by rules developed to control police relations with suspected criminals. This is, we think, an entirely new development. For centuries, the role of the police as watchmen was judged primarily not in terms of its compliance with appropriate procedures but rather in terms of its attaining a desired objective. The objective was order, an inherently ambiguous term but a condition that people in a given community recognized when they saw it. The means were the same as those the community itself would employ, if its members were sufficiently determined, courageous, and authoritative. Detecting and apprehending criminals, by contrast, was a means to an end, not an end in itself; a judicial determination of guilt or innocence was the hoped-for result of the law-enforcement mode. From the first, the police were expected to follow rules defining that process, though states differed in how stringent the rules should be. The criminal-apprehension process was always understood to involve individual rights, the violation of which was unacceptable because it meant that the violating officer would be acting as a judge and jury—and that was not his job. Guilt or innocence was to be determined by universal standards under special procedures.

Ordinarily, no judge or jury ever sees the persons caught up in a dispute over the appropriate level of neighborhood order. That is true not only because most cases are handled informally on the street but also because no universal standards are available to settle arguments over disorder, and thus a judge may not be any wiser or more effective than a police officer. Until quite recently in many states, and even today in some places, the police made arrests on such charges as "suspicious person" or "vagrancy" or "public drunkenness"—charges with scarcely any legal meaning. These charges exist not because society wants judges to punish vagrants or drunks but because it wants an officer to have the legal tools to remove undesirable persons from a neighborhood when informal efforts to preserve order in the streets have failed.

Once we begin to think of all aspects of police work as involving the application of universal rules under special procedures, we inevitably ask what constitutes an "undesirable person" and why we should "criminalize" vagrancy or drunkenness. A strong and commendable desire to see that people are treated fairly makes us worry about allowing the police to rout persons who are undesirable by some vague or parochial standard. A growing and not-so-commendable utilitarianism leads us to doubt that any behavior that does not "hurt" another person should be made illegal. And thus many of us who watch over the police are reluctant to allow them to perform, in the only way they can, a function that every neighborhood desperately wants them to perform.

This wish to "decriminalize" disreputable behavior that "harms no one"—and thus remove the ultimate sanction the police can employ to maintain neighborhood order—is, we think, a mistake. Arresting a

single drunk or a single vagrant who has harmed no identifiable person seems unjust, and in a sense it is. But failing to do anything about a score of drunks or a hundred vagrants may destroy an entire community. A particular rule that seems to make sense in the individual case makes no sense when it is made a universal rule and applied to all cases. It makes no sense because it fails to take into account the connection between one broken window left untended and a thousand broken windows. Of course, agencies other than the police could attend to the problems posed by drunks or the mentally ill, but in most communities especially where the "deinstitutionalization" movement has been strong—they do not.

The concern about equity is more serious. We might agree that certain behavior makes one person more undesirable than another but how do we ensure that age or skin color or national origin or harmless mannerisms will not also become the basis for distinguishing the undesirable from the desirable? How do we ensure, in short, that the police do not become the agents of neighborhood bigotry?

We can offer no wholly satisfactory answer to this important question. We are not confident that there is a satisfactory answer except to hope that by their selection, training, and supervision, the police will be inculcated with a clear sense of the outer limit of their discretionary authority. That limit, roughly, is this—the police exist to help regulate behavior, not to maintain the racial or ethnic purity of a neighborhood.

Consider the case of the Robert Taylor Homes in Chicago, one of the largest public-housing projects in the country. It is home for nearly 20,000 people, all black, and extends over ninety-two acres along South State Street. It was named after a distinguished black who had been, during the 1940s, chairman of the Chicago Housing Authority. Not long after it opened, in 1962, relations between project residents and the police deteriorated badly. The citizens felt that the police were insensitive or brutal; the police, in turn, complained of unprovoked attacks on them. Some Chicago officers tell of times when they were afraid to enter the Homes. Crime rates soared.

Today, the atmosphere has changed. Police-citizen relations have improved—apparently, both sides learned something from the earlier experience. Recently, a boy stole a purse and ran off. Several young persons who saw the theft voluntarily passed along to the police information on the identity and residence of the thief, and they did this publicly, with friends and neighbors looking on. But problems persist, chief among them the presence of youth gangs that terrorize residents and recruit members in the project. The people expect the police to "do something" about this, and the police are determined to do just that.

But do what? Though the police can obviously make arrests whenever a gang member breaks the law, a gang can form, recruit, and congregate without breaking the law. And only a tiny fraction of gang-related crimes can be solved by an arrest; thus, if an arrest is the only recourse for the police, the residents' fears will go unassuaged. The police will soon feel helpless, and the residents will again believe that the police "do nothing." What the police in fact do is to chase known gang members out of the project. In the words of one officer, "We kick ass." Project residents both know and approve of this. The tacit police-citizen alliance in the project is reinforced by the police view that the cops and the gangs are the two rival sources of power in the area, and that the gangs are not going to win.



None of this is easily reconciled with any conception of due process or fair treatment. Since both residents and gang members are black, race is not a factor. But it could be. Suppose a white project confronted a black gang, or vice versa. We would be apprehensive about the police taking sides. But the substantive problem remains the same: how can the police strengthen the informal social-control mechanisms of natural communities in order to minimize fear in public places? Law enforcement, per se, is no answer: a gang can weaken or destroy a community by standing about in a menacing fashion and speaking rudely to passersby without breaking the law.

We have difficulty thinking about such matters, not simply because the ethical and legal issues are so complex but because we have become accustomed to thinking of the law in essentially individualistic terms. The law defines *my* rights, punishes *his* behavior and is applied by *that* officer because of *this* harm. We assume, in thinking this way, that what is good for the individual will be good for the community and what doesn't matter when it happens to one person won't matter if it happens to many. Ordinarily, those are plausible assumptions. But in cases where behavior that is tolerable to one person is intolerable to many others, the reactions of the others—fear, withdrawal, flight—may ultimately make matters worse for everyone, including the individual who first professed his indifference.

It may be their greater sensitivity to communal as opposed to individual needs that helps explain why the residents of small communities are more satisfied with their police than are the residents of similar neighborhoods in big cities. Elinor Ostrom and her co-workers at Indiana University compared the perception of police services in two poor, all-black Illinois towns—Phoenix and East Chicago Heights with those of three comparable all-black neighborhoods in Chicago. The level of criminal victimization and the quality of police-community relations appeared to be about the same in the towns and the Chicago neighborhoods. But the citizens living in their own villages were much more likely than those living in the Chicago neighborhoods to say that they do not stay at home for fear of crime, to agree that the local police have "the right to take any action necessary" to deal with problems, and to agree that the police "look out for the needs of the average citizen." It is possible that the residents and the police of the small towns saw themselves as engaged in a collaborative effort to maintain a certain standard of communal life, whereas those of the big city felt themselves to be simply requesting and supplying particular services on an individual basis.

If this is true, how should a wise police chief deploy his meager forces? The first answer is that nobody knows for certain, and the most prudent course of action would be to try further variations on the Newark experiment, to see more precisely what works in what kinds of neighborhoods. The second answer is also a hedge—many aspects of order maintenance in neighborhoods can probably best be handled in ways that involve the police minimally if at all. A busy bustling shopping center and a quiet, well-tended suburb may need almost no visible police presence. In both cases, the ratio of respectable to disreputable people is ordinarily so high as to make informal social control effective.

Even in areas that are in jeopardy from disorderly elements, citizen action without substantial police involvement may be sufficient. Meetings between teenagers who like to hang out on a particular corner and adults who want to use that corner might well lead to an amicable agreement on a set of rules about how many people can be allowed to congregate, where, and when.

Where no understanding is possible—or if possible, not observed—citizen patrols may be a sufficient response. There are two traditions of communal involvement in maintaining order: One, that of the

"community watchmen," is as old as the first settlement of the New World. Until well into the nineteenth century, volunteer watchmen, not policemen, patrolled their communities to keep order. They did so, by and large, without taking the law into their own hands—without, that is, punishing persons or using force. Their presence deterred disorder or alerted the community to disorder that could not be deterred. There are hundreds of such efforts today in communities all across the nation. Perhaps the best known is that of the Guardian Angels, a group of unarmed young persons in distinctive berets and T-shirts, who first came to public attention when they began patrolling the New York City subways but who claim now to have chapters in more than thirty American cities. Unfortunately, we have little information about the effect of these groups on crime. It is possible, however, that whatever their effect on crime, citizens find their presence reassuring, and that they thus contribute to maintaining a sense of order and civility.

The second tradition is that of the "vigilante." Rarely a feature of the settled communities of the East, it was primarily to be found in those frontier towns that grew up in advance of the reach of government. More than 350 vigilante groups are known to have existed; their distinctive feature was that their members did take the law into their own hands, by acting as judge, jury, and often executioner as well as policeman. Today, the vigilante movement is conspicuous by its rarity, despite the great fear expressed by citizens that the older cities are becoming "urban frontiers." But some community-watchmen groups have skirted the line, and others may cross it in the future. An ambiguous case, reported in *The Wall Street Journal* involved a citizens' patrol in the Silver Lake area of Belleville, New Jersey. A leader told the reporter, "We look for outsiders." If a few teenagers from outside the neighborhood enter it, "we ask them their business," he said. "If they say they're going down the street to see Mrs. Jones, fine, we let them pass. But then we follow them down the block to make sure they're really going to see Mrs. Jones."

Though citizens can do a great deal, the police are plainly the key to order maintenance. For one thing, many communities, such as the Robert Taylor Homes, cannot do the job by themselves. For another, no citizen in a neighborhood, even an organized one, is likely to feel the sense of responsibility that wearing a badge confers. Psychologists have done many studies on why people fail to go to the aid of persons being attacked or seeking help, and they have learned that the cause is not "apathy" or "selfishness" but the absence of some plausible grounds for feeling that one must personally accept responsibility. Ironically, avoiding responsibility is easier when a lot of people are standing about. On streets and in public places, where order is so important, many people are likely to be "around," a fact that reduces the chance of any one person acting as the agent of the community. The police officer's uniform singles him out as a person who must accept responsibility if asked. In addition, officers, more easily than their fellow citizens, can be expected to distinguish between what is necessary to protect the safety of the street and what merely protects its ethnic purity.

But the police forces of America are losing, not gaining, members. Some cities have suffered substantial cuts in the number of officers available for duty. These cuts are not likely to be reversed in the near future. Therefore, each department must assign its existing officers with great care. Some neighborhoods are so demoralized and crime-ridden as to make foot patrol useless; the best the police can do with limited resources is respond to the enormous number of calls for service. Other neighborhoods are so stable and serene as to make foot patrol unnecessary. The key is to identify

neighborhoods at the tipping point—where the public order is deteriorating but not unreclaimable, where the streets are used frequently but by apprehensive people, where a window is likely to be broken at any time, and must quickly be fixed if all are not to be shattered.

Most police departments do not have ways of systematically identifying such areas and assigning officers to them. Officers are assigned on the basis of crime rates (meaning that marginally threatened areas are often stripped so that police can investigate crimes in areas where the situation is hopeless) or on the basis of calls for service (despite the fact that most citizens do not call the police when they are merely frightened or annoyed). To allocate patrol wisely, the department must look at the neighborhoods and decide, from first-hand evidence, where an additional officer will make the greatest difference in promoting a sense of safety.

One way to stretch limited police resources is being tried in some public housing projects. Tenant organizations hire off-duty police officers for patrol work in their buildings. The costs are not high (at least not per resident), the officer likes the additional income, and the residents feel safer. Such arrangements are probably more successful than hiring private watchmen, and the Newark experiment helps us understand why. A private security guard may deter crime or misconduct by his presence, and he may go to the aid of persons needing help, but he may well not intervene—that is, control or drive away—someone challenging community standards. Being a sworn officer—a "real cop"—seems to give one the confidence, the sense of duty, and the aura of authority necessary to perform this difficult task.

Patrol officers might be encouraged to go to and from duty stations on public transportation and, while on the bus or subway car, enforce rules about smoking, drinking, disorderly conduct, and the like. The enforcement need involve nothing more than ejecting the offender (the offense, after all, is not one with which a booking officer or a judge wishes to be bothered). Perhaps the random but relentless maintenance of standards on buses would lead to conditions on buses that approximate the level of civility we now take for granted on airplanes.

But the most important requirement is to think that to maintain order in precarious situations is a vital job. The police know this is one of their functions, and they also believe, correctly, that it cannot be done to the exclusion of criminal investigation and responding to calls. We may have encouraged them to suppose, however, on the basis of our oft-repeated concerns about serious, violent crime, that they will be judged exclusively on their capacity as crime-fighters. To the extent that this is the case, police administrators will continue to concentrate police personnel in the highest-crime areas (though not necessarily in the areas most vulnerable to criminal invasion), emphasize their training in the law and criminal apprehension (and not their training in managing street life), and join too quickly in campaigns to decriminalize "harmless" behavior (though public drunkenness, street prostitution, and pornographic displays can destroy a community more quickly than any team of professional burglars).

Above all, we must return to our long-abandoned view that the police ought to protect communities as well as individuals. Our crime statistics and victimization surveys measure individual losses, but they do not measure communal losses. Just as physicians now recognize the importance of fostering health rather than simply treating illness, so the police—and the rest of us—ought to recognize the importance of maintaining, intact, communities without broken windows.

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The Atlantic :: Magazine :: Broken Windo...

<http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/4465/>

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## **Informing the debate on Local Alcohol Policies – Fact v Fiction**

The food and beverage sector of the hospitality industry is integral to the entertainment offerings in New Zealand's towns and cities and plays an important role in our social life.

The production and sale of alcohol are also significant drivers of economic activity, more than 70,000 people work in the food and beverage sector and it is the third biggest area of spend for tourists.

The Sale and Supply of Alcohol Act 2012 gives councils the ability to regulate opening hours for licensed premises, control location and impose operating restrictions on licences to reduce excessive and irresponsible drinking behaviour.

Many Councils are now planning Local Alcohol Policies or LAPs and considering measures such as restricting the number of outlets, operating hours and one-way door policies to prevent access to bars after certain times.

The hospitality sector supports sensible drinking and operators of licensed premises are compliant, responsible providers who work constructively with local authorities and police.

What people shouldn't do is confuse the well managed and professionally run licensed food and beverage premises with the huge growth in off-license and burgeoning sales in supermarkets that have seen alcohol becomes cheaper more readily available.

As a result of greater availability and affordability, 75 per cent of all alcohol is now consumed off-license and most people involved in dealing with effects of excessive alcohol agree it's the drinking at home or in public place that causes most of the problems.

Responsible licensees are concerned that more restrictions on 25% of the market that is already well controlled and closely monitored won't change the excessive behaviours. There is also compelling evidence that some measures can actually make things worse.

One way doors and restricted hours were trialled widely in Australia and largely abandoned because they didn't work and imposed significant cost on an industry that already works on low margins and tight budgets.

It is easier to force change in Hospitality practices because the sector is professionally run and complies with the licensing framework. What's harder is changing the behaviour of individuals and family who have most of the responsibility in curbing alcohol-related harm.

This can be an emotive subject and HNZ has undertaken extensive research to find the best available information to separate fact from fiction and inform the development of LAPs in our region. We hope you find the information useful and we would be happy to add our own experiences to the research.

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Fiction

•Blanket closing times and reducing opening hours of licensed bars, nightclubs and restaurants curbs alcohol-related problems

Fact

•Severe restrictions and blanket closing hours not only fail to lessen alcohol consumption, they can increase trouble and aggression

The experience of the industry in New Zealand matches experience and research from overseas. There is concern that blanket bans and severe restrictions can actually increase the very behaviour that communities seek to avoid.

The UK report *Drinking and Public Disorder* researched links between alcohol and disorder in the UK, Europe and Scotland.

The report concluded that blanket closing times lead to 'peak density' or a concentration of behaviours which increased the likelihood of conflict and made policing more difficult. The measure was also found to create transport problems and issues for fast-food outlets in the vicinity – both of which were deemed to be hotspots for trouble.

Easter weekend this year provided stark examples of peak density problems, when all bars and nightclubs closed at midnight on Saturday, ahead of Easter Sunday's non-trading day. In Christchurch, police said "pre-loaded" people "went hard", drinking to excess before midnight. This resulted in many arrests for drunk and disorderly behaviour, and the hospital reported being extremely busy dealing with alcohol related injuries. (Stuff 31 Mar, 2013)

In Wainuiomata near Wellington, a 15-year-old was stabbed in the back after a party turned ugly in what Police central communications shift commander Mark Oliver said was one of their busiest nights of the year. "*With pubs closing at midnight, many people chose to pre-load, or start drinking early*". (Stuff 31 Mar, 2013)

A 2006 report by Greenaway and Conway in Auckland found that the common time for violent confrontations was around 3am when the majority of licensed premises close and all bar patrons are forced into the streets. These troubles would be exacerbated if all bars had the one set blanket closing time.

Similarly there is no clear evidence to support the assumption that reducing opening hours lowers the levels of alcohol consumption and intoxication.

We only need to look to the past to conclude that a reduction in opening hours does not work. Six o'clock closures led to what became known as 'the six o'clock swill' and only reinforced the drink hard and drink fast mentality.

Emergency Medicine Specialist at Wellington Hospital, Dr Paul Quigley, has first-hand experience of the strain drunken Kiwis put on the country's emergency departments. He has spoken out publically against prohibition.

The Emergency Department doctor wrote in a 2010 New Zealand Drug Foundation newsletter that the biggest impact in changing New Zealand's drinking habits will come from

curtailing off-licence supplies, not the regulated and closely monitored section of the hospitality industry.

Overseas experience also shows that shorter opening hours fail to significantly reduce society's alcohol misuse and have serious, unintended consequences on those operating in the night time economy.

In 2005, the English and Welsh Governments took a controversial approach to violence prevention by removing restrictions on opening hours for alcohol outlets.

The study, *Do flexible opening hours reduce violence? An assessment of a natural experiment in alcohol policy* assessed the effects of the move between 2004-2008 in Manchester, UK. It concluded that there was little evidence to show deregulation affected citywide violence rates.

London's Applied Criminology Centre found that extending late-night trading hours actually reduced alcohol-related violence, binge drinking and disorder as patrons dispersed over a long time period.

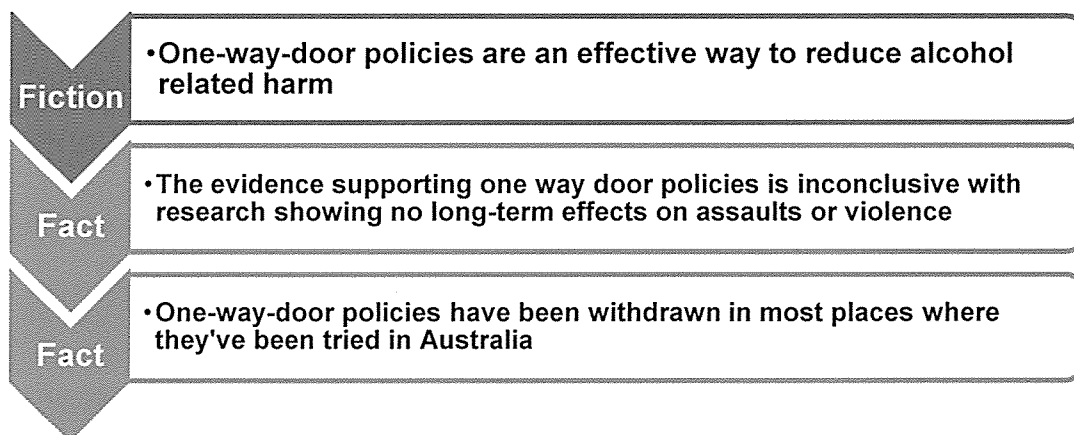
Marsh, P. and Fox Kibby, K. (1992) *Drinking and Public Disorder*

Greenaway, S. Conway, K. (2006) *Auckland Regional Community Action Project on Alcohol evaluation report. Final report.*

Stuff (31/03/2013) *Early closing 'pre-loading' causes havoc & Teen stabbed in party mayhem*

New Zealand Drug Foundation (2010) *The A&E Doctor – Dr Paul Quigley*

Humphreys, D (2012) *Do flexible opening hours reduce violence? An assessment of a natural experiment in alcohol policy*



One-way-door policies – or lockdowns as they are known in Australia – are a measure that has been tried repeatedly in overseas jurisdictions. They have been largely rejected because they didn't work and actually increased behavioural problems.

An extensive study into alcohol-related nightlife crime in Australia, *Dealing with alcohol-related harm and the night-time economy* compared the effectiveness of alcohol-related

crime prevention measures introduced between 2005-2010 in New South Wales and Victoria.

The study, the largest of its kind in Australia, concluded there was no evidence to show that one-way-door policies are effective in their own right. It also found the policies had no long-term effect on assaults or violence. It did, however, find that the policy harmed smaller bars and venues that trade earlier.

A KPMG assessment of Melbourne's three-month one-way-door trial (June 2008 to September 2008) found alcohol-related presentations as a proportion of total hospital emergency presentations on Friday and Saturday nights increased and continued during the temporary lockout period. The policy was subsequently scrapped.

In 2006, an ABC documentary reported on the effectiveness of Brisbane's one-way-door policy. It reported that it failed to reduce the number of assaults admitted to the Royal Brisbane and Women's Hospital. Taxi drivers were interviewed as part of the report and supported the view that the policy had failed to curb late night violence.

Queensland criminologist, Professor Ross Homel of Griffith University has extensively researched one-way-door policies. He says as a preventative measure the policy is "purely symbolic". (The Age, 2008)

Any one-way-door policy will require additional staffing. Experience tells us that higher levels of enforcement will see a big rise in tension with people trying to get into bars after the nominated time, while those inside will stay and drink for as long as they possibly can.

Our own experience, backed by international research, is that people not allowed into bars are likely to drink in public places, move to where there are no restrictions, or party at home.

This is supported by the experience in Christchurch following the 2011 earthquake and the subsequent shutdown of the central city bars and nightclubs when complaints about noisy parties in suburban areas nearly tripled. The Christchurch City Council received more than 15,000 noise complaints in the year to June 2012.

Christchurch City Council's inspections and enforcement officer, Gary Lennan says during that period, the number of complaints for parties also skyrocketed, with almost all coming from residential areas.

*"Party and band noise seem to be leading these increases and it is thought that the quakes have influenced this by reducing the number of official venues and bars, causing more celebrations to occur at private homes." (Fairfax, 2012)*

The Age (2008) *'Quick political fix' unlikely to stop violence*

Decon University (2012) *Dealing with alcohol-related harm and the night-time economy*

KPMG (2008) *Evaluation of the Temporary Late Night Entry Declaration*

Fairfax (2012) *Rowdy parties move to suburbs*



Fiction

•Regulating bars, nightclubs and restaurants is the only way to change behaviour

Fact

•Around 75 per cent of alcohol consumption occurs outside of regulated licensed premises

Most alcohol is consumed outside licensed premises. This is consistent with the rapid increase in the number of off-licence premises and the growing prevalence of supermarket alcohol sales. The hospitality industry estimates that off-premise consumption has also increased – up from 60 per cent to 75 per cent over the same period. In other words, only 25 per cent of alcohol is consumed on regulated and controlled premises.

A report for the Alcohol Advisory Council and ACC evaluated the implementation of the Christchurch Central Business District Alcohol Accord implemented between 2006 and 2007. The research identified the main sources of alcohol were friends and family, home, supermarkets and bottle stores, with much of that alcohol consumed in the home.

This reinforces conclusions drawn from an earlier paper on drinking trends, *A Decade of Drinking: Ten-year trends in drinking patterns in Auckland, New Zealand, 1990-1999*. Over the decade a number of changes occurred in the popularity of drinking locations. The number of people drinking at home increased, as did the amount of alcohol consumed in the home – up from three drinks per occasion in 1990, to four in 1999.

Consuming alcohol in their own or other people's homes – often larger amounts – also remained common place. According to the Alcohol and Public Health Research Unit, 39 per cent of men and 45 per cent of women drink at home rather than on licensed premises (24 per cent and 20 per cent respectively).

This research reinforces the experience of the industry, police, councils and health authorities that the biggest area of concern are the habits of 'pre-loading' at home before going to town, and 'side-loading' which involves drinking in cars or public places where it's cheaper than buying alcohol in bars and nightclubs. Side-loading is also unmonitored and uncontrolled.

Detective Inspector Bernie Jackson worked as the area commander for central Melbourne during the city's trial with one-way door restrictions. He also managed Victoria's Safe Streets project. He says there are more effective ways to combat alcohol-related problems than the regulation of bars, nightclubs and restaurants.

He says the introduction of measures which encourage patrons to take personal responsibility have been, by and large, the most successful when it comes to improving behaviour in Melbourne. These include introducing ID scanners (like those used in Canada) which allow venues using the computer technology to share information and identify potential trouble makers admitted to bars.

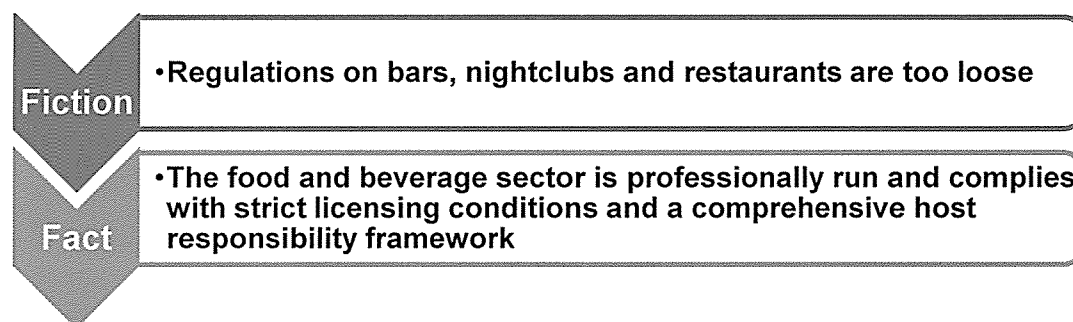
Detective Inspector Jackson also encourages councils, police and licensees to work together to tackle the issue of alcohol-related problems.

“What underpins the success we’ve had in Melbourne is working together with licensees – this is not their problem, nor is it ours – it’s a community problem.”

ALAC (2008) Evaluation of the Christchurch city one-way door intervention

Alcohol & Public Health Research Unit (2001) A Decade of Drinking: Ten-year trends in drinking patterns in Auckland, New Zealand, 1990-1999

Habgood R, Bhatta K, Casswell S, Pledger M, Alcohol and Public Health Research Unit (APHRU, 2001) Drinking in New Zealand: National Surveys Comparison 1995 and 2000



Licensees have a strict set of conditions relating to their premises and their license. All premises must meet requirements of the **Resource Management Act** and the **Building Code**, have a **Fire Safety & Evacuation Procedure** and comply with **Food Hygiene and Safety** regulations.

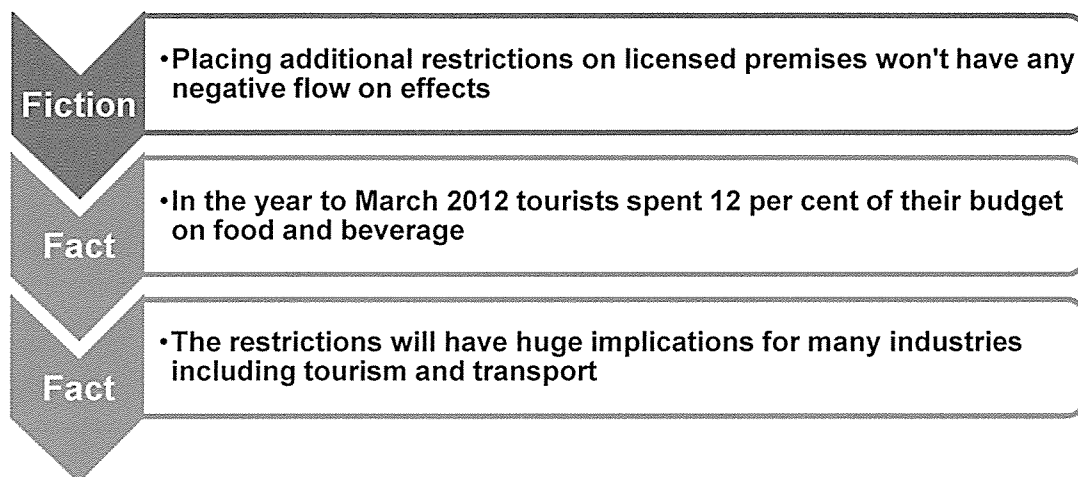
Bars are also required to have a Host Responsibility Policy. The key responsibilities for licensees are not to serve or to have underage or intoxicated people on the premises.

Consequences for breaches include prosecutions in the District Court or through the Alcohol Regulatory and Licensing Authority and substantial loss of income resulting from temporary venue closures. Any bar or nightclub owner found to have breached the act three times within three years also faces losing their licence.

Conditions for licensees include:

- Having a Host Responsibility Policy
- Trading within their licensed hours and within the conditions of their license
- A licensed Duty Manager on at all times
- Not serving minors – or even allowing them on the premises
- Not letting anyone become intoxicated, not serving anyone who is intoxicated, not letting someone stay on the premises if they are intoxicated
- Ensuring there is substantial food available and, increasingly, that it is promoted
- Providing information about transport
- Encouraging patrons, as much as they can, not to drink and drive – if a patron is caught driving under the influence, Police will register this against the license holder
- Door staff are legally certified Crowd Controllers
- Any promotions must be within the national protocol on promotions guidelines
- Providing free water ( a provision under the new Act)
- Complying with food safety regulations and gaming regulations
- Making sure staff are trained on all of the above

A full list is attached as an appendix to this document.



The food and beverage sector plays an important role in social life and is an integral part of the entertainment offerings in our towns and cities. The production and sale of alcohol are also significant drivers of economic activity through both sales and employment.

Wellington City Council prides itself and deliberately markets the city as an events capital with a distinct entertainment precinct. The Council recently surveyed 1000 residents about the role of alcohol in the capital:

- 63 per cent of respondents agreed that alcohol provides significant employment opportunities through the production, catering and retail of alcohol-related products and services
- 37 per cent agreed that alcohol availability is essential to the vibrancy of the city
- 54 per cent agreed that having a few drinks enhances their experience of dining out
- 64 per cent agree that the number of pubs, bars, and restaurants is about right

The food and beverage sector is a cornerstone of New Zealand's tourism offering. Between 1997 and 2002 the area of greatest growth in tourism spending was in hospitality, with food and beverage services up 42 per cent (Statistics New Zealand).

In the year to March 2012, tourists spent 12 per cent on food and beverage services. The spend came ahead of accommodation (9 per cent) and placed third overall behind retail goods (including fuel and other automotive products) and air passenger transport. (Statistics New Zealand, Tourism Satellite Account: 2012)

An unintended consequence of restricting trading hours of licensed premises was significant disruption and trouble for the transport sector. The Australian experience, backed by industry research, shows restrictions caused significant operational difficulties, service disruptions and increases in violence.

A 2010 submission to the NSW Government by the Newcastle Taxi Operators Association spoke of the increased taxi waiting times that occurred during the 1am inner-city lockouts and 3am fixed closing times introduced in December 2008.

The submission said that the policies led to a mass of people seeking transport between these two times, overwhelming taxi services.

This is another consequence of the 'peak density' behaviour which turns drinking hours into targets and encourages people to drink to the limit of the reduced timeframe.

A report from Victoria, Australia warned that a lack of taxi services and public transport in the small hours contributed to drink-driving, the injury of intoxicated pedestrians, and increased violence from frustrated patrons wandering the streets because they couldn't get home.

There were equally significant consequences for bars, nightclubs and pubs themselves.

The 2010 Crosbie Warren Sinclair Report detailed the impact of restrictions introduced in New South Wales in 2008. It found that of the 14 Newcastle hotels subject to the policies, which included one-way doors and blanket closing times:

- Nine of the 14 closed, changed hands or went into receivership
- An average reduction in turnover – 27.7 per cent (weekly)
- 21.7 per cent reduction in revenues
- \$22.5 million decline in asset values
- 21.7 per cent reduction in hotel workforce

Newcastle Taxi Operators Association (2010) *Inquiry into NSW Taxi Industry*

Crosbie Warren Sinclair Report (2010) Review of Newcastle Restrictions prepared for the Australian Hotels Association NSW

Victorian Health Promotion Foundation (2012) *Pubs and clubs Project: Literature review of different policy and community-based intervention and baseline trends of specific interventions in Geelong, Victoria (2000–2010)*

**Fiction** •Alcohol availability continues to increase

**Fact** •Total volumes of alcohol fell 15 million litres or 3.3 per cent in 2012 when compared with 2011. This is a continuation of a downward trend over many years.

We can't confuse the number of outlets with alcohol consumption and availability. Since the Sale of Liquor Act was introduced in 1989 the number of off-licences has more than doubled with more than 14,000 liquor outlets across the country. However, despite this backdrop statistics show consistent falls in the volume of alcohol available to consumers.

The latest Statistics New Zealand figures show a 3.3 per cent fall in the volume of alcohol available to December 2012. The 2012 statistics follow similar results from earlier years with declines of 3.1 per cent also recorded in 2009 (*Alcohol Available for Consumption: Year ended December 2012, Statistics New Zealand*).

*NB: Alcohol statistics are a measure of how much alcohol is available for consumption, rather than actual consumption.*

- Fiction** • New Zealanders are big consumers of alcohol and are drinking more
- Fact** • International comparisons show New Zealanders continues to drink less
- Fact** • New Zealanders drank 20 million fewer litres of beer in 2012

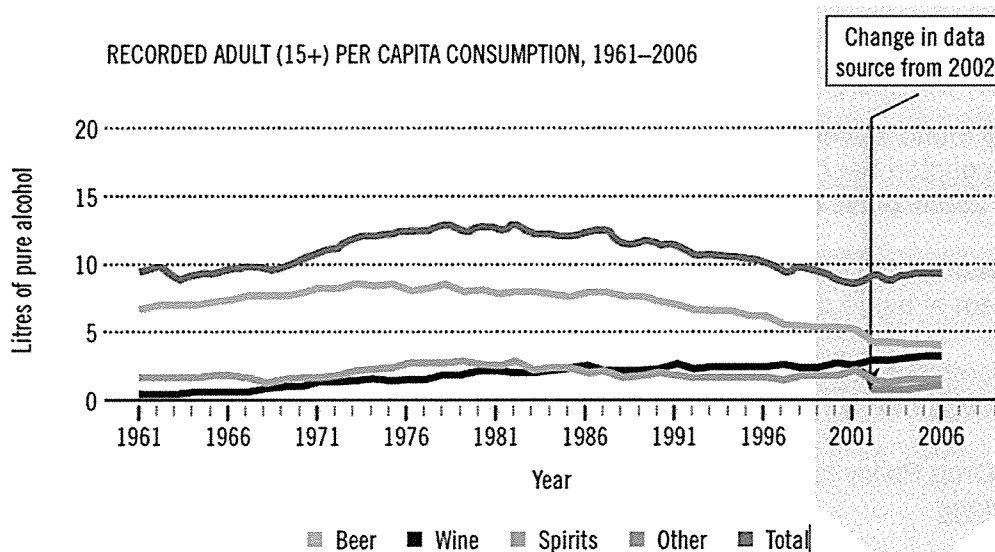
The latest figures from Statistics New Zealand don't support our reputation as a country of heavy drinkers. While we see some disturbing images of the harm caused by alcohol, the statistics put these into context as a small number that do not represent the majority of people who have responsible attitudes to alcohol.

In addition, the 2011 World Health Organisation's Global Status Report on Alcohol and Health found consumption of alcohol in New Zealand continues to fall.

**Table 3: Alcohol consumption in New Zealand (WHO)**

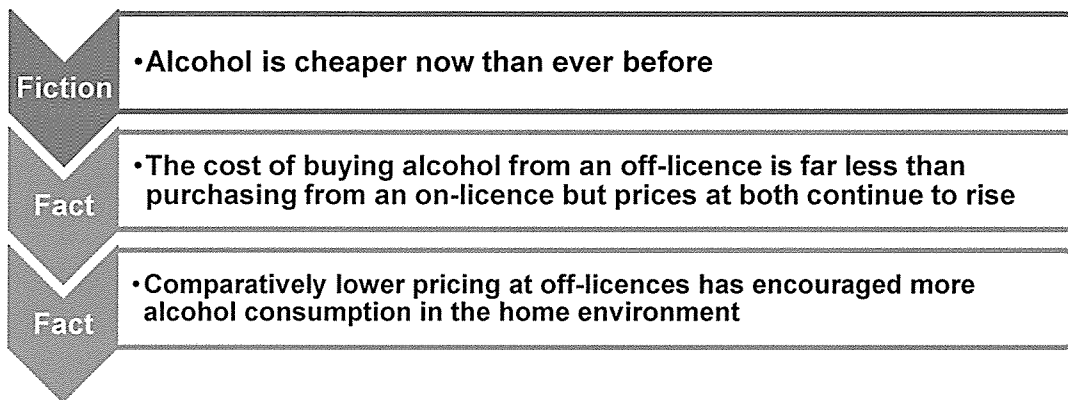
### ALCOHOL CONSUMPTION

Population data (refer to the population 15 years and older and are in litres of pure alcohol).



In the World Health Organisation report New Zealand does not even make the top 50 countries when it comes to alcohol consumption per capita. Moldova tops the list with 18.22 litres of alcohol consumed per capita, followed by the Czech Republic and Hungary. New Zealand comes in at number 51 behind Australia which places 44th on the list.

World Health Organisation (2011) *Global Status Report on Alcohol and Health 2011*



Dr Paul Quigley from Wellington Hospital's Emergency Department sums up the situation in a NZ Drug Foundation interview when he talks about the cost of alcohol purchased from an off-licence (supermarket, bottle store).

*"Alcohol is no longer a treat. It is cheap and easily available. Young people buy a bottle of Jim Beam and a very small bottle of Coke, mix it and drink it at home so they are intoxicated before they hit town."*

CPI figures detailing the cost of beer at off-licences (supermarkets and liquor store) has increased 14.4 per cent from 2006. Whereas, the cost of a glass (400ml) of beer at licensed premises has increased 41.52 per cent. Hospitality New Zealand members say the increase does not equate to increased profits for bar owners with the majority reporting profits well under five per cent.

Otago University research, published in the New Zealand Medical Journal in 2010 found off-licence alcohol became increasingly affordable in the 10 years to 2010.

The study found discounted (off-licence) cask wine could cost as little as 62c for a standard drink, discounted beer 64c, discounted bottled wine 65c and spirits 78c. That compared to 67c for a 250ml glass of bottled water and 43c for a glass of milk.

It found that heavily advertised alcohol discounts – such as in supermarkets – exacerbated the problem of binge drinking.

The research shows that in 1999, it took 21 minutes for a person on the average wage to afford enough beer to reach the legal driving limit. In 2010, it took only 17 minutes.

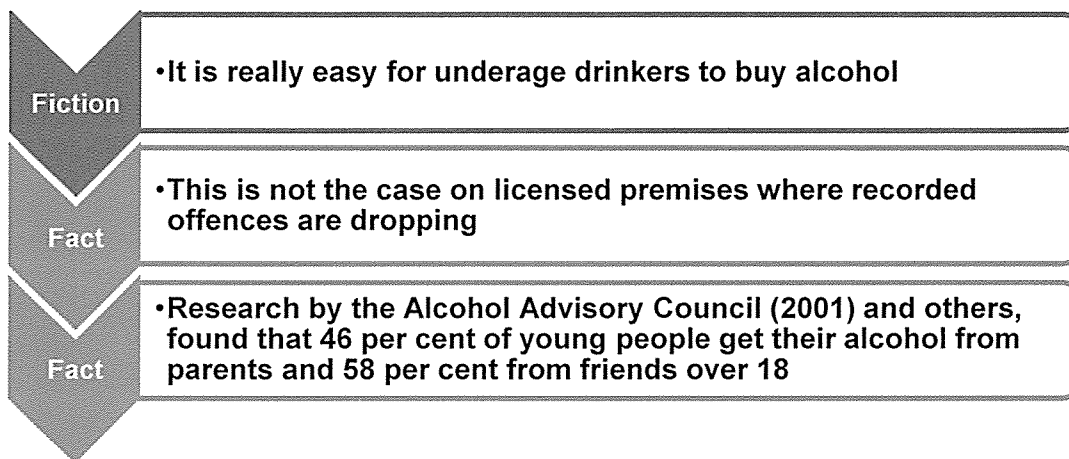
National Drug Policy New Zealand (2002) *Tackling Alcohol-related Offences and Disorder in New Zealand*

NZPA (2012) *Downtown Booze Beat*

Newswire (2012) *Contrary to belief, we may be losing 'binge' from our drinking culture*

McEwan, B., Swain, D., and Campbell, M. (2011) *Controlled intoxication: the self-monitoring of excessive alcohol use within a New Zealand tertiary student sample*

Wilson, N and the Department of Public Health, University of Otago, Wellington. (2010) *Very cheap drinking in New Zealand*



It is important not to confuse the regulated on-license environment with off-licenses. Those working within the industry are trained and experienced with the strict guidelines surrounding the sale of alcohol.

All licensed premises are required to have a Host Responsibility Policy outlining key responsibilities. These include not serving, or having on the premises, minors or anyone who is intoxicated – they know the rules and the consequences for their businesses if they don't comply.

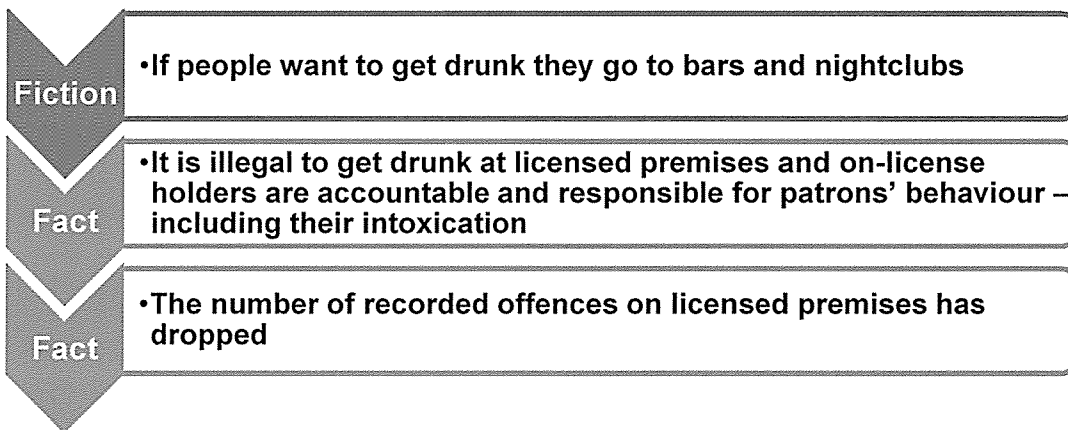
Consequences include prosecutions in the District Court or through the Alcohol Regulatory and Licensing Authority and substantial loss of income resulting from temporary venue closures. Any bar or nightclub owner found to have breached the act three times within three years also faces losing their license.

Statistics from New Zealand police show the number of recorded offences for the supply of liquor to a minor continue to fall. In the 2011/12 fiscal year, there were 208 recorded offences, compared with 263 offences in 2010/11.

The number of people prosecuted for buying liquor to supply to a minor also continues to fall.

**Table 1. Purchase/acquires liquor to supply minor – National statistics**

<b>Fiscal year</b>	<b>Number of offences</b>
2007/2008	51
2008/2009	49
2009/2010	37
2010/2011	47
2011/2012	24



The New Zealand report, Tackling Alcohol-related Offences and Disorder in New Zealand (National Drug Policy New Zealand, 2002) found that since the 1999 law change, there has been a reduction in recorded offences against the Sale of Liquor Act involving licensed premises.

The biggest contributors to intoxication are practices outside the control of licensed premises:

- pre-loading – drinking before going into town, and
- side-loading – drinking in cars or other places where it's cheaper than on-license premises

In a 2012 article that followed police patrolling downtown Auckland, Constable Joseph Waugh and Constable Tim Alexander said young people often drive into town and keep large quantities of alcohol in their parked cars.

The two constables said the cheapness of spirits from bottle stores compared with buying drinks in a bar lead to many patrons "pre-loading" (also known as side-loading) in their cars.

It's an opinion backed up by Wellington police sergeant Andrew Kowalczy who was quoted in a 2012 Whitireia Journalism student's article saying that the problem isn't with licensed premises who "*understand the repercussions of the law*", but with pre-loading.

*"You get a lot of people who instead of going into licensed premises where they have a degree of control on your behaviour and they'll monitor it, you've got people who'll sit there and they'll skull these syrupy, horrible, artificial drinks, and they'll consume as much as they can, down their throat.*

*"And we start dealing with the people making their way into town, people coming into town in van loads, sitting in car parks, sculling back as much as they can. So they've got a buzz on, before they hit the bars and drink one beer."*

A 2011 report, Controlled intoxication: the self-monitoring of excessive alcohol use within a New Zealand tertiary student sample, out of Waikato University, found that on-license premises are enjoyed for their entertainment value, such as dancing and meeting people, as opposed to buying drinks. The report again reiterated the commonplace phenomenon of pre-loading due to the cheaper cost of off-license alcohol.



**Fiction**

•Bars and clubs are making big profits

**Fact**

•A hospitality New Zealand survey found 48 per cent of members paid themselves less than the minimum wage in 2011 and 2012

The hospitality sector is far more than a provider of entertainment services and a component of the service sector. It is an integral part of the tourism industry, a large employer and a significant economic contributor to the country as a whole.

Hospitality New Zealand members are small to medium enterprises that employ and spend in their local communities. Unlike many small businesses, HNZ members argue that after paying compliance costs, taxes, fees, levies, wages, product and staff costs, the profits are minimal for many.

The majority of license holders work well beyond a 40 hour week. When earnings after expenses are divided by actual hours worked, the result is often below the minimum wage of \$13.75 an hour.

In addition, there are significant sales in the early hours of trading. The following table is the estimated annual spend between 4.00 and 7.00am in the country's bars, pubs, nightclubs, restaurants and adult entertainment venues. The figures are based on electronic card transactions and exclude cash.

	Estimated spend	% of total transactions in that area
All of NZ	\$150,105,808.20	0.55% of total transactions
<b>Of this total:</b>		
Auckland/Northland	\$ 82,810,033.15	0.70% of total transactions
Wellington	\$ 33,050,577.25	1.11% of total transactions

These figures reinforce that Auckland and Wellington accounts for more than 75 per cent of the spend during those hours. It also supports the experience of many small business in that this period provides a significant slice of a week's earning once fixed operating costs have been recovered.

In the USA, Cornell University's Hotel and Restaurant Administration Quarterly (Reynolds, D. 1998) reported that labour generally comprises around a third of hospitality costs, and food another third.

The 2007 study, Food & beverage service sector productivity, undertaken by Auckland University's Tourism Research Institute noted that many operators within the hospitality sector are locked into a cycle that generates a poor return on their investment, often resulting in short life-spans for the businesses concerned.

Despite this, the sale of alcohol in New Zealand remains an important driver of economic activity. In 2006, 71,820 people across the country were employed in pubs, cafes, restaurants, bars and nightclubs contributing billions of dollars to the economy. (*Law Commission 2009*).

**Table 2: Auckland’s hospitality sector, March 2010 to March 2011**

	To March 2011	Per centage of region total	Per centage of national sector	Growth 2010 to 2011	
				Auckland	NZ
Gross Domestic Product (GDP): \$ millions	\$745	1.1%	37.4%	1.5%	-1.9%
Employment	27,073	3.8%	33.7%	1.9%	-0.8%
Business units	3,433	2.1%	34.7%	6.2%	2.2%

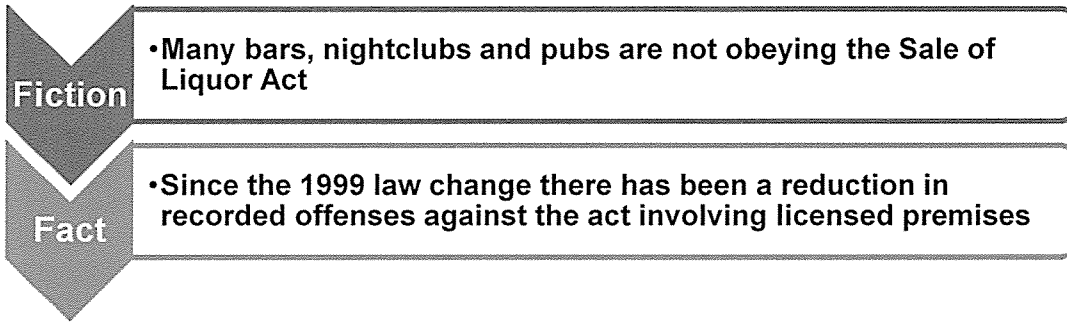
**Source: Auckland Annual Economic Profile; Infometrics Ltd**

The table above shows that between March 2010 and March 2011:

- The hospitality sector generated \$745 million in economic output in Auckland
- The sector contributed 1.1 per cent to the region's economic output
- Auckland's hospitality sector economic output grew by 1.5 per cent compared with a decline of 1.9 per cent nationally.

New Zealand Tourism Research Institute (2007) *Food & beverage service sector productivity*

Reynolds, D. (1998) Productivity analysis in the on-site food service segment. *Cornell Hotel and Restaurant Administration Quarterly*



Bar owners and staff have a legal responsibility to keep intoxicated people out of their premises and to not serve intoxicated patrons. The onus is on them to comply with the responsibilities and conditions of their license and they face significant penalties if they fail to do so.

The vast majority of licensees are compliant and responsible providers of alcohol who understand the repercussions of the law and work constructively with local authorities and police.

This is reinforced by the very small number of problems compared to the number of licences and the size of the hospitality sector, and the amount of business transacted around the country every week.

The Liquor Licensing Authorities Annual Report to June 2012 shows a 23 per cent decrease in the number of enforcement proceedings received over the year; down from 1006 to 778.

Three liquor licences were cancelled in the year to June 2012 compared with four for the 12-months prior and 281 licenses suspended compared with 306 the year earlier.

In 2011, 6,971 licensing inspections were carried out across Auckland resulting in 55 suspensions or cancellations of licenses, less than one per cent of the establishments inspected.

## Appendix: Regulations and obligations of license holders

### Current requirements

Every liquor licence and renewal application must have a certificate that the proposed use of the premises meets requirements of the **Resource Management Act** and the **Building Code**, including, where applicable, access and facilities for mobility impaired persons.

The site also requires a **Fire Safety & Evacuation Procedure** and a registration of the premises and compliance with **Food Hygiene and Safety** regulations.

Every person acting as a crowd controller must either hold a **Crowd Control Certificate of Approval** or **licence** to do so.

When deciding whether or not to grant an application, consideration must be given to:

- the general suitability of the applicant
- the days and the hours proposed to sell alcohol
- the areas of the premises, if any, that should be designated as restricted or supervised areas in respect of minors
- the steps proposed to be taken by the applicant to ensure that the requirements of this Act in relation to the sale of alcohol to prohibited persons (minors and intoxicated persons) are observed
- Proposals relating to the sale and supply of low and non-alcoholic refreshments and food
- Assistance with, or information about, alternative forms of transport from the licensed premises
- “any [licensing] matters” dealt with in any report made by the District Licensing Inspector, police or Public Health

On granting an application the Licensing Authority or Agency may impose conditions relating to any of the following matters:

- the days and the hours during which alcohol may be sold with different conditions able to be imposed in respect of different parts of the premises. The Licensing Authority or District Licensing Agency, as the case may be, may have regard to the site of the premises in relation to neighbouring land use.
- the provision of food
- the sale and supply of low-alcohol beverages
- the provision of assistance with or information about alternative forms of transport from the licensed premises
- any other matter aimed at promoting the responsible consumption of liquor
- steps to be taken by the licensee to ensure that the provisions of this Act relating to the sale of liquor to prohibited persons are observed
- the designation of the whole or any part or parts of the premises as a restricted or supervised area
- conditions prescribing the people or kinds of person to whom alcohol may be sold or supplied – except for Human Rights reasons

## **From June 2013**

### **All of the above and:**

In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:

- the object of the Act & whether granting the licence is likely to increase alcohol related harm, including such factors as 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,
- the design and layout of the premises,
- whether 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, including the extent to which, and ways in which the locality in which the premises are situated are pleasant and agreeable including current and possible future noise levels, nuisance and vandalism and the number of premises for which licences of the kind concerned are already held and the extent to which land near the premises concerned is used and the general desirability of the issue of the licence,
- whether the applicant has appropriate systems, staff, and training to comply with the law.

On granting an application the Licensing Authority or Committee concerned may issue a licence subject to conditions of any or all of the following kinds:

- conditions prescribing steps to be taken by the licensee to ensure that sale or supply of alcohol to prohibited persons are observed,
- conditions prescribing steps to be taken by the licensee relating to the management of the premises concerned are observed,
- conditions prescribing the people or kinds of person to whom alcohol may be sold or supplied – except for Human Rights reasons,
- conditions imposing one-way door restrictions,
- Drinking water to be freely available to customers while the premises are open for business.



2 August 2013

SUBMISSION No. .... **528** .....

Community Networks  
Wellington City Council  
PO Box 2199  
**WELLINGTON 6011**

Booked 8/8

2.30 to 2.45 pm

**Attention:** Jaime Dyhrberg

Dear Jaime

**Re: Submission on the Right Mix:  
Draft Local Alcohol Policy and Draft Alcohol Management Strategy**

Thank you for the opportunity to provide a written submission on the consultation documents. This a joint submission from the health services of Capital & Coast District Health Board (**CCDHB**) and Regional Public Health (**RPH**).

CCDHB has a statutory responsibility to improve, promote and protect the health of its residents and more specifically to advance the National Health Strategy which has goals and objectives relating to minimising the harm caused by alcohol in terms of injury and other health outcomes. As such members of the board have voiced concern about the harmful impact of alcohol on communities within its district.

CCDHB receives funding to improve, promote and protect the health of the people in our communities and ensure health services are available either by contracting with external providers (such as PHOs, GPs, primary care practices/services, rest homes, dentists, pharmacists, NGOs including Maori and Mental Health providers) or providing the services directly (such as hospital services). Currently 298,000 people live within the Capital & Coast district with two thirds of the population living within Wellington City.

CCDHB assesses the health status of the population and determines what funds should be directed to preventing illness and early intervention of illness (via primary health and public health services) while continuing to provide and improve existing hospital and other specialist services.

Harm linked to alcohol affects almost every aspect of DHB endeavour whether it is services directly provided by the DHB or funded by the DHB. This harm may be the direct effect of alcohol on patients or indirect through the second-hand effect on patients from others affected by alcohol. However both the direct and indirect effects are all avoidable. The DHB sees itself as being one of the key stakeholders with respect to policies focused on reducing alcohol-related harm.

Key clinical departments within the DHB such as the Emergency Department and the Addiction Services have provided input into this submission.

A key player in our effort to reduce alcohol-related harm is RPH. RPH serves the Greater Wellington region and provides the population-based services for the area's three district health boards (**DHBs**): Capital & Coast, Hutt Valley and Wairarapa. It is hosted by the Hutt Valley District Health Board.

RPH works with our community to make it a healthier and safer place to live. It promotes good health, prevent disease and improve the quality of life for our population, with a particular focus on children and Maori as well as working with primary care organisations. Our staff cover a range of occupations such as: Medical Officers of Health, Public Health Advisors, Health Protection Officers, Public Health Nurses and Public Health Analysts.

We are happy to provide further advice or clarification on any points raised in our written submission. We wish to appear before the committee to speak to our written submission.

The contact point for this submission is:

Andrea Boston  
Public Health Advisor  
**Regional Public Health**  
Phone: 04 570 9138  
Mobile: 027 630 6732  
Email: [Andrea.Boston@huttvalleydhb.org.nz](mailto:Andrea.Boston@huttvalleydhb.org.nz)

Kind Regards



Mary Bonner  
**Chief Executive Officer**  
**Capital & Coast DHB**



Peter Gush  
**General Manager**  
**Regional Public Health**



Dr Jill McKenzie  
**Clinical Director**  
**Regional Public Health**

## Structure of Submission

This submission is arranged in three parts.

**Section A:** Alcohol related harm and the health sector

**Section B:** Evidence to support reduced availability of alcohol (hours, density and location of outlets) in reducing alcohol related harm

**Section C:** Response to questions on Submission Form from Council on:

- draft Local Alcohol Policy and
- draft Alcohol Management Strategy.

Note that the Medical Officer of Health for Wellington will be presenting a submission that sits alongside this submission that focuses specifically on the regulatory aspects and responsibilities of the Medical Officer of Health in relation to alcohol related harm.

## Section A: Alcohol related harm and the health sector

Alcohol use is deeply embedded in the New Zealand culture and the way alcohol is consumed is of great concern to the health sector. Alcohol related harm does not just impact on the small number of so called 'heavy drinkers'. It impacts on the majority of the population. In New Zealand there is a tendency to not drink regularly and often, but to drink excessively when we do drink<sup>1</sup>. This is the so called 'binge drinking culture'. The following is from the 2007/2008 Alcohol and Drug Use Survey<sup>2</sup>:

- Three in every five drinkers will consume excessive amounts of alcohol at least once in the year (binge drink).
- One in eight drinkers will binge drink at least weekly.
- Those most likely to binge drink frequently are young adults, males more often than females.
- However still one in every four women drinks alcohol while pregnant, despite being advised not to consume any alcohol at all.

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<sup>1</sup>NZ Law Commission (2010) NZLC R114 *Alcohol in our lives: Curbing the harm*. [http://www.lawcom.govt.nz/project/review-regulatory-framework-sale-and-supply-liquor?quicktabs\\_23=report](http://www.lawcom.govt.nz/project/review-regulatory-framework-sale-and-supply-liquor?quicktabs_23=report)

<sup>2</sup> Ministry of Health (2009) *Alcohol Use in New Zealand: Key results of the 2007/08 New Zealand Alcohol and Drug Use Survey*. Wellington: Ministry of Health



Whilst the 2011/12 New Zealand Health Survey paints an improving picture where one in five drinkers had a hazardous drinking pattern<sup>3</sup> the method used for assessment will not pick up those who binge drink unless they do so often.

We are just beginning to understand the far reaching impact that alcohol has on the health of New Zealanders over the life course. New research has shown that alcohol is the cause of more than one in 20 deaths for those aged less than 80 years in New Zealand<sup>4</sup>. Alcohol consumption was estimated to have caused 6.1 percent of all male deaths under 80 years and 4.3 percent of all female deaths - in total 802 deaths a year. The death rate for Maori was 2.5 times that of non-Maori. Forty three percent of all alcohol related deaths were from injury, 30 per cent directly attributable to cancers and the remaining 27 percent from other chronic health conditions. There was also a huge burden of disability from alcohol use. The study demonstrates that "... alcohol consumption is one of the most important risk factors for avoidable mortality and disease in early and middle adulthood, and contributes substantially to the loss of good health across the life course"<sup>5</sup>

This study reports only on the range of physical health conditions related to alcohol use. The real extent of harm is much greater when other factors such as the involvement of alcohol in crime and violence, plus other more subtle impacts on communities are considered.

As reported in Wellington City Council's publication: 'Alcohol Management Snapshot', there is a significant positive relationship between on and off-license outlets, violent crime and areas with very poor health outcomes. The impacts of the availability of alcohol on health, crime and violence are of major concern and it is something that can be changed.

The current legislative controls are distinctly weighted on the side of unacceptable levels of harm and action to reduce the harms is necessary. Wellington needs a population based policy for alcohol control. With this, the environment sets the scene for change making it easier for people to comply. The benefit of a population approach is that it targets all people and whilst the benefit may be smaller for some than others, it will help support change for those whose patterns of drinking is to consume excessively whether this is a frequent or infrequent behaviour. Evidence-based research in public health reinforces the importance of population based

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<sup>3</sup> Ministry of Health (2013) *Hazardous drinking in 2011/12: Findings from the New Zealand Health Survey*. [www.health.govt.nz/.../12-findings-from-the-new-zealand-health-survey.pdf](http://www.health.govt.nz/.../12-findings-from-the-new-zealand-health-survey.pdf)

<sup>4</sup> Connor J, Kydd R, Shield K, & Rehm J. (2013) *Alcohol-attributable burden of disease and injury in New Zealand: 2004 and 2007*. Health Promotion Agency. <http://www.hpa.org.nz/sites/default/files/Attributable%20fractions%20Final.pdf>

<sup>5</sup> Connor J, Kydd R, Shield K, & Rehm J. (2013) *Alcohol-attributable burden of disease and injury in New Zealand: 2004 and 2007*. Health Promotion Agency. <http://www.hpa.org.nz/sites/default/files/Attributable%20fractions%20Final.pdf>

policies and clearly states the limitations of approaches that rely on targeting individuals considered at risk<sup>6</sup>.

## **Section B: Evidence to Support Reduced Availability of Alcohol**

The most effective methods for addressing alcohol harm are well researched and documented. Three key publications; Alcohol No Ordinary Commodity<sup>7</sup>, the Global Strategy to Reduce the Harmful Use of Alcohol<sup>8</sup> and the New Zealand Law Commissions, Alcohol In Our Lives: Curbing the Harm<sup>9</sup> all refer to five key strategies for effective alcohol harm reduction these being:

- Reduce availability
- Increase the price
- Increase the purchase age
- Reduce advertising and marketing
- Reduce the blood alcohol driving limit

The strategy under consideration is the reduction in availability which the Local Alcohol Policy can achieve through controls on the numbers of licenses, their location and hours of operation. Below is a snapshot of relevant international and national evidence supporting the reduction in availability.

### **A. Evidence of Harmful Consumption Patterns**

New Zealanders have increased the volume of alcohol they drink per occasion in step with the liberalisation of the drinking environment, there being a direct link between policy changes and consumption. This was matched by increased levels of alcohol related problems suffered by the individual<sup>10</sup>. One in three New Zealand drinkers report being harmed by their own drinking<sup>11</sup>.

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<sup>6</sup> Doyle YG, Furey A. & Flowers J. (2006) Sick Individuals and sick populations: 20 years later. *Journal of epidemiology community health*, vol 60 p396-398.

<sup>7</sup> Babor T, Caetano C, Casswell S et al 2<sup>nd</sup> edition (2010) *Alcohol No Ordinary Commodity* Oxford: Oxford University Press

<sup>8</sup> World Health Organization (2010) *Global strategy to reduce the harmful use of alcohol*. [http://www.who.int/substance\\_abuse/alcstratenglishfinal.pdf](http://www.who.int/substance_abuse/alcstratenglishfinal.pdf)

<sup>9</sup> Law Commission (2010) NZLC R114 Alcohol in Our Lives: Curbing the Harm

<sup>10</sup> Huckle T, Pledger M, Casswell S. (2012) Increases in typical quantities Consumed and alcohol-related problems during a decade of liberalizing alcohol policy. *Journal of studies on alcohol and drugs*, Vol 73, issue 1, January

<sup>11</sup> J Meiklejohn, J Connor, K Kyri (2012) *Journal of the New Zealand Medical Association* NZMJ 24 August 2012, Vol 125 No 1360; ISSN 1175 8716 Page 28  
URL:<http://www.nzma.org.nz/journal/125-1360/5309/> ©NZMA

Alcohol related harm falls not only on the drinker but also on family, friends' associates and the general public. Many in the population are exposed to and suffer from to a greater or lesser degree the harm from another's alcohol consumption<sup>12 13</sup>.

Preloading prior to a night out is common behaviour. It is significantly cheaper to purchase alcohol at off-licences compared with on-licenses and this fuels the behaviour. The volume of alcohol consumed for those who report drinking prior to attending night time entertainment is significant, they are four more times likely to report drinking 14 or more standard drinks on a usual night out compared with those who have not drunk alcohol prior. They are also two and a half times more likely to have been involved in a fight in the city's night life during the previous 12 months<sup>14</sup>.

The cost of alcohol related harm in New Zealand is significant ranging from \$735 million to \$16.1billion<sup>15</sup>.

## **B. Evidence affirming that a reduction in the availability of alcohol will reduce alcohol related harm**

There is an extensive global evidence base that states that a restriction in the availability of alcohol will reduce alcohol-related harm. The most comprehensive publication finds that according to all of the independent reviews available nationally and internationally, studies on the restriction of alcohol availability will contribute to a reduction of alcohol problems. The best evidence comes from studies that change retail accessibility through a reduction of hours and days of sale and limits on the number of alcohol outlets<sup>16</sup>. This is further backed by another multiple study review with findings stating alcohol availability is an effective measure to prevent alcohol related harm<sup>17</sup>.

A number of studies have looked specifically at the operation of on-licensed premises and closing hours and alcohol related harm. In a Perth study, late night trading was associated with increased levels of consumption and increased violence in the establishments and surrounding areas<sup>18</sup>. A study in Newcastle, New South Wales of

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<sup>12</sup> Connor J, Casswell S. (2009) The burden of road trauma due to others people's drinking. *Accident Analysis and Prevention*, 41, 1099-1103

<sup>13</sup> Casswell S, Harding J, You R & Huckle T. (2011) The range and magnitude of alcohol's harm to others: self-reported harms experienced by a representative sample of New Zealand adults. *New Zealand Medical Journal*, 124(1336), <http://www.nzma.org.nz/journal/124-1336/4707/>.

<sup>14</sup> Hughes K, Anderson Z, Morleo M, Bellis M. *Addiction*, (2008) Vol.103 Issue 1, 60-65

<sup>15</sup> ALAC March 2012. *The Real Story of Kiwis and Alcohol*

[http://www.alcohol.org.nz/sites/default/files/useruploads/Resourcepdfs/KiwisAlcohol\\_0.pdf](http://www.alcohol.org.nz/sites/default/files/useruploads/Resourcepdfs/KiwisAlcohol_0.pdf)

<sup>16</sup> Babor T, Caetano C, Casswell S et al 2<sup>nd</sup> edition (2010) *Alcohol No Ordinary Commodity* Oxford: Oxford University Press

<sup>17</sup> Popova S, Giesbrecht N, Bekmuradov D, Patra J. (2009) Hours and days of sale and density of alcohol outlets: Impacts on alcohol consumption and damage: A systematic review. *Alcohol and Alcoholism*; 44(5), 500-516.

Full article-<http://alcal.oxfordjournals.org/content/44/5/500.full.pdf+html>

<sup>18</sup> Chikritzhs T and Stockwell TR. (2002) The impact of later trading hours for Australian public houses (hotels) on levels of violence. *Journal of Studies on Alcohol*; 63(5), 591-599. Full

when bar hours were reduced to a closing time of 3.00/3.30am, there was a corresponding large reduction in assault incidence of 37% in comparison to the control locality<sup>19</sup>. A review of 10 further studies affirmed that reductions in on-licensing hours of more than 2 hours had an effect in reducing excessive alcohol consumption and related harms<sup>20</sup>. International studies have found a relationship between the type of premise and corresponding harm<sup>21</sup>.

We have postulated that a reduction in the opening hours of on-licenses by implementing earlier closing would result in people coming to town earlier and an overall reduction in the volume of alcohol consumed. There is evidence to support this. A crime prevention intervention in Newcastle found that a blanket reduction in trading hours would likely lead to positive changes in the drinking culture. Responses from key informants suggest that change would be achieved in a more immediate and measurable way than interventions such as social marketing campaigns could achieve<sup>22</sup>.

### **C. Evidence supporting the need for control over alcohol outlet density to reduce crime and reduce excessive consumption.**

There is an extensive international body of evidence to support the strength of the relationship between alcohol outlet density and the incidence of alcohol-related crime, violence, domestic violence, anti-social behaviour, road traffic accidents, etc. and harm to vulnerable groups like dependent drinkers, children and young people. New Zealand specific studies have shown that where there are more outlets there are increased levels of drinking and associated alcohol related harm irrespective of whether the business is a supermarket, grocery or bar<sup>23 24 25</sup>. Australian research

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article

[http://www.jsad.com/jsad/article/The\\_Impact\\_of\\_Later\\_Trading\\_Hours\\_for\\_Australian\\_Public\\_Houses\\_Hotels\\_on\\_/1260.html](http://www.jsad.com/jsad/article/The_Impact_of_Later_Trading_Hours_for_Australian_Public_Houses_Hotels_on_/1260.html)

<sup>19</sup> Kypri K, Jones C, McElduff P, Barker D. (2010) Effects of restricting pub closing times on night-time assaults in an Australian city. *Addiction*; 106(2), 303-310.

Full article- <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3041930/pdf/add0106-0303.pdf>

<sup>20</sup> Hahn RA et al. 2010. Effectiveness of Policies Restricting Hours of Alcohol Sales in Preventing Excessive Alcohol Consumption and Related Harms. *Am J Prev Med* 2010;39(6):590-604) Full article-

<http://www.thecommunityguide.org/alcohol/EffectivenessofPoliciesRestrictingHoursofAlcoholSalesinPreventingExcessiveAlcoholConsumptionandRelatedHarms.pdf>

<sup>21</sup> Livingston, M. (2011). Alcohol outlet density and harm: Comparing the impacts on violence and chronic harms. *Drug and Alcohol Review*, 30(5), 515-523.

<sup>22</sup> Miller P, Tindall J, Sonderland A et al (2012) *Dealing with alcohol-related harm and the night-time economy*: Final report. Deakin University, Hunter New England Population Health

<sup>23</sup> Connor JL, Kypri K, Bell ML, Cousins K. (2011). Alcohol outlet density, levels of drinking and alcohol-related harm in New Zealand: a national study. *Journal of Epidemiology and Community Health*; 65(10), 841-846. Abstract- <http://jech.bmj.com/content/65/10/841.long>

<sup>24</sup> Huckle T, Huakau J, Sweetsur P, Hulsman O, Casswell S. (2008). Density of alcohol outlets and teenage drinking: living in an alcogenic environment associated with higher consumption in a metropolitan setting. *Addiction*; 103(10), 1641-1621. Full article

[http://www.parliament.wa.gov.au/intranet/libpages.nsf/WebFiles/ITS+-+alco+article+Huckle+08/\\$FILE/alco+article+Huckle.pdf](http://www.parliament.wa.gov.au/intranet/libpages.nsf/WebFiles/ITS+-+alco+article+Huckle+08/$FILE/alco+article+Huckle.pdf)

<sup>25</sup> Cameron MP, Cochrane W, McNeill K, Melbourne P, Morrison S, and Robertson N. (2012). Alcohol outlet density is related to police events and motor vehicle accidents in Manukau City,

shows a relationship between the premises type and the category of hospital admission. Where the main business is alcohol consumption on site (i.e. bars/taverns) hospital admissions are more likely to be assault-related, while the off-license alcohol outlets are more often associated with alcohol use disorders<sup>26</sup>. This is perhaps understandable as the nature of bars is one that puts people in close proximity with one another while simultaneously alcohol reduces the drinker's ability to make reasoned choices. Heavy drinkers are likely to prefer purchasing from off licenses where alcohol is cheaper.

#### **D. Local evidence supporting increased action on harm reduction.**

The Wellington City Council Alcohol Management Snapshot reports on the significant positive relationship between the density of alcohol outlets and crime in Wellington City and the Wellington Region (p16). Regional Public Health has reported on the rates of alcohol related emergency department presentations which are of urgent concern, given that adolescents and young adults are those most likely to have alcohol related presentations related to injury and extreme intoxication (refer Alcohol Management Snapshot p42 and 43).

### **Section C: Submission Questions**

#### **Wellington City Council Draft Local Alcohol Policy**

- 1a. Under the proposed zone framework, late night trading activity of bars and entertainment venues will be moved into a specific Entertainment Precinct to better manage the harm associated with trading at this time.**

Creating an Entertainment Precinct:

#### **Disagree**

The last two decades have seen significant relaxation on the controls on alcohol with subsequent excessive levels of harm. In our view the pendulum has swung too far towards harm and needs to be rebalanced.

High density of premises in a concentrated geographic area and late night trading has been associated with higher levels of alcohol-related harm<sup>27 28</sup>. Whilst

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New Zealand, *Australian and New Zealand Journal of Public Health*; 36(6), 537-542. Abstract-<http://onlinelibrary.wiley.com/doi/10.1111/j.1753-6405.2012.00935.x/full>

<sup>26</sup> Livingston, M. (2011). Alcohol outlet density and harm: Comparing the impacts on violence and chronic harms. *Drug and Alcohol Review*, 30(5), 515-523.

<sup>27</sup> Graham K & Homel R (2008a) *Raising the bar: Preventing aggression in and around bars, pubs and clubs*. London: Willan Publishing

<sup>28</sup> Livingston M 2008. A longitudinal analysis of alcohol outlet density and assault. *Alcoholism: Clinical and Experimental Research* 32(6): 1074–79

entertainment precincts have been used in some locations there are still significant questions to be answered about the types of controls required to risk-manage the harm. Evaluation from trials in Australia show that one of the most effective methods for reducing harm, particularly assaults, are direct supply controls that reduce the hours of trading and restrict the type of alcohol products sold<sup>29</sup>. An entertainment precinct with more relaxed hours is therefore not an appropriate approach at this time.

Emergency Department and police data confirm that the later bars are open the more hospital attendances and problems arise. There is no evidence that 5am and 'host best practice' will limit the harm. Very few places in the world have 5am closure (refer to Alcohol Management Snapshot p23).

**Regional Public Health (RPH) and Capital & Coast District Health Board (CCDHB) support closure at 3am.** Once this is established and sufficiently low levels of harm are seen it may be appropriate to trial an entertainment precinct to determine if some relaxation of the hours is feasible. This should only be implemented on a trial basis to measure effectiveness before being adopted permanently into any policy. Special licenses may be issued for temporary events such as the Rugby Sevens, which relax the hours and these events should be closely monitored to assess the harm. This will help inform any further developments.

**1b. The proposed risk-based management framework reviews the suitability of all elements of the activity in relation to its impact on the community and provides a risk classification.**

Risk-Based Management Framework

### Agree

We commend the council for adopting a risk-based framework. We support the notion of providing incentives for alcohol-licensed operators to improve performance.

The criteria used in the risk assessment do not include sufficient measures to assess harm. The Criteria for issue of a license (section 105 in the Sale and Supply of Alcohol 2012) includes assessment against the Object of the Act and the reports from Police, The Medical Officer of Health and Licensing Inspector.

**We suggest a separate template for all premise types; on, off, club and special or amending the current template to be appropriate for these licenses e.g. host responsibility training for off-licenses / clubs / specials.**

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<sup>29</sup> Miller P, Tindall J, Sonderland A et al (2012) *Dealing with alcohol-related harm and the night time economy: Final report*. Deakin University, Hunter New England Population Health

In all templates add the following:

- An additional section – Harm Minimisation with a score based on matters dealt with by Police and the Medical Officer of Health.

An additional sub-section under section Assessment of Impact of Amenity and Good Order as follows:

- Harm with the score based on current reports of alcohol-related harm in the locality such as (caused directly and indirectly, or contributed to by) crime, damage, death, disease, disorderly behaviour, illness, injury.
- Proximity with the score based on proximity of the premise to sensitive local amenities such as schools, churches, community and sports facilities.

**1c. The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafes).**

*Entertainment Precinct*

7am-3am

7am-5am maximum for best-practice premises:

*Central Area*

7am-2am

7am-3am maximum for best-practice premises:

**Strongly Disagree**

We already see the results of relaxation of on-license hours in the city and the resulting harm. It has been Regional Public Health's experience that the current Council Alcohol Policy which stipulates a maximum trading hour of 3am is regularly extended for many premises and is considered more a right than a privilege.

A host responsibility model with relaxation of the hours as a risk management strategy is of no benefit to harm reduction. Wellington City Council requires a more balanced consideration between the high cost of the consequences of alcohol and a late night economy.

Trading hours currently encourage the late night entry of customers into the CBD which extends the time of preloading from off-licenses. Further, the very late alcohol licenses are appealing to the younger age groups and this exacerbates the harm. Earlier closure of the premises in the CBD will encourage patrons to move into the

CBD sooner and thus reduce the time for preloading and reduce the levels of intoxication.

We agree with the Police position that the maximum hours should be no later than 3am.

*Suburban Centre*

7am-midnight maximum:

**Strongly Agree**

We commend the hours proposed for suburban centres. The hours support the needs of residential communities supporting a home environment that helps protect both the drinker from harm as well as protect the local residents from harm caused by someone else's drinking.

**1d . The proposed maximum trading-hour restrictions of 7am-9pm for off-licensed venues (supermarkets, grocery stores, bottle stores)**

Maximum trading-hour restrictions of 7am-9pm for off-licensed venues

**Strongly Agree**

CCDHB and RPH congratulate Wellington City Council on the off-license hours of closure proposed in the policy. The majority of alcohol consumed is sold from off-licenses. This is a key strategy to reduce availability and thus reduce opportunistic sales for immediate consumption. This will provide a barrier to access for people who are at risk such as those with dependent or harmful drinking.

**We further recommend consideration be given to all off-licensed stores selling alcohol from 9am.**

**1e. Supermarkets, grocery and bottle stores (all off-licence venues) should be treated the same despite the different range of products they sell.**

**Strongly Agree**

Off licences whether they are supermarkets, grocery or liquor stores are the key drivers of the harm witnessed over the past two decades. Although there may be



some differences in the products sold in the stores, it is clear that supermarkets have been the key drivers of the cheap alcohol prices.

The majority of alcohol consumed in New Zealand is beer, closely followed by wine and these are the products sold through the supermarkets. It cannot be argued that the supermarket clientele is necessarily at less risk of excessive consumption than other clientele purchasing from the liquor stores. Wellington Emergency Department staff have found that the consumption of wine in particular is placing young women at risk. Being higher in alcohol content than RTD's (ready to drink spirits), wine and sparkling wines provide a 'good value' alcohol kick. Similarly Wellington Emergency Department staff have noted that for heavy dependent drinkers wine in casks is a preferred choice. These are readily accessible from supermarkets at cheap prices.

**1f. The Council will look closely at applications for the sale and supply of alcohol at youth-focused occasions or events, or those likely to attract people under the legal purchase age of 18 years.**

Council focus on applications for youth-focused occasions or events:

**Agree with qualification**

Wellington Emergency Department data provides evidence that there is significant harm from the misuse and abuse of alcohol for those under the age of 18 years. We commend Wellington City Council in recognising the need for additional risk measures to prevent harm from those under the purchase age at events.

We would expect a good applicant to have thought about how they protect young people at events from harm and therefore to have developed an appropriate alcohol risk management plan prior to their application. If this is not provided it calls into question their suitability to host such an event.

Events vary significantly and a number of these will involve considerable risk and require appropriate management to ensure harm is avoided. Wellington City Council's draft implementation plan (Draft Alcohol Management Strategy, p17) does require detailed risk management plans for large scale events and we support this. However other events may also need to be more closely considered such as events catering for the risk age group 15 – 34 years.

**1g. The policy identifies circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises.**

The proposed circumstances that would trigger a District Licensing Committee hearing to deal with issues of density and proximity of licensed premises.

**Strongly Disagree**

The policy does not provide an adequate response to density and proximity issues.

**Density**

Density is a policy matter to be set in Local Alcohol Policy and is not a neighbourhood issue. To suggest that community appeals and the provisions in the Sale and Supply of Alcohol Act 2012 are adequate for density, completely misses the key purpose of having a Local Alcohol Policy, which is to place controls on access in order to address the harms from alcohol misuse. The policy is to directly inform the District Licensing Committee who must consider the licensing application and decide whether or not it should be granted. It does not require referral to a hearing with the outcome determined by case law.

The policy should, at the very least, prescribe a standard for the management of off-licence and tavern density. It should restrict or reduce the number of those license types in those neighbourhoods where there is a disproportionate incidence of alcohol-related harm. Wellington City Council has one of the highest rates of liquor licenses per capita nationally and also exhibits high levels of violent crime which is directly correlated with the location of the on and off-licensed premises. Stronger action is required to address such serious matters.

**We recommend the policy adopts sinking lid and capped premise numbers to address the combination of density, violence and other alcohol related harm.**

Evidence clearly demonstrates that liquor store and tavern densities are a key driver in alcohol related harm. In the past 20 years liquor licenses have more than doubled and more substantive measures are required to address the numbers of outlets.

**Proximity**

We agree that the proximity of licensed premises to certain sensitive community facilities is a neighbourhood issue and needs to be determined by that community. It is also an issue that is best supported through the Local Alcohol Policy.

Public Health staff have found that it is often very difficult for communities to engage in the licensing process. To have a say the people in communities are required to have knowledge of the licensing application, to submit in writing against the application and to make themselves available on any given day and time to attend a public hearing. If they are unable to attend, their contribution is not considered. This can be extremely problematic for employed residents unable to get leave, for those not easily mobile and for those not confident in preparing evidence or speaking in public. In almost all instances these objectors will be representing themselves and are often faced with significant questioning by a lawyer which can be daunting. The process is not supportive or kind to community.

The intent of a local alcohol policy is to put controls in place that reduce the ongoing onus of public participation to each and every license application of community concern.

**We recommend a prescribed system that directly addresses the community concerns, where communities determine the sensitive facilities, and the buffer zone, that is (determine the distance of the community facility from the nearest outlet).**

#### **1h. The proposed discretionary conditions that could be applied to a licence**

The proposed discretionary conditions

#### **Agree**

We commend Wellington City Council for proposing the use of discretionary conditions. Such conditions are of great value as they do support excellence in business practice by providing management solutions to identified risks.

We approve of the list of conditions (Draft Local Alcohol Policy p58-60). We do not see the list as exhaustive of all possibilities. It is possible that other unforeseen conditions could be applied to a premise. We would be concerned if the list was in any way reduced. A good business operator would welcome close scrutiny of any risk or harm and as a responsible host should also welcome any discretionary licensing provisions that mitigate these.

**We recommend that all conditions remain and flexibility be maintained so that other conditions may be adopted as the need arises.**

#### **2. Overall do you agree with the direction of the draft Local Alcohol Policy?**

## Agree

Wellington City needs a Local Alcohol Policy to regulate licensed premises and control alcohol availability. The draft policy is heading in the right direction but needs further strengthening.

The 2012 Sale and Supply of Alcohol Act does go some way toward repositioning alcohol and addressing the harm. The Act however does place the greater onus on local government through the adoption of Local Alcohol Policies to address the concerns of community and to reduce the harm in those communities.

### **3. What are the best aspects of the draft Local Alcohol Policy?**

We emphasize the importance of reducing availability and commend the actions of council in reducing the hours of off licensed premises - see 1c, 1d and 1e.

### **4. What aspects of the draft Local Alcohol Policy do you think need to be changed?**

#### Density

Prescriptive controls such as sinking lid and capped numbers need to be implemented to address density in areas demonstrating higher levels of harm – see 1g.

#### Public Participation

The objection process is not user friendly for the public. Communities have clearly indicated that they see a local alcohol policy as necessary; it being a tool to directly address their concerns on density and sensitive amenities removing the need for obligatory attendance at hearings - see 1g.

#### Entertainment precinct

We do not support the entertainment precinct and hours beyond 3am – see 1a.

## **Questions**

### **Draft Alcohol Management Strategy**

- 6. The proposed goals in the draft Alcohol Management Strategy are achievable.**

## **Agree**

Wellington Central City has made a good start to managing the sale and supply of alcohol and harm reduction. However further strengthening is required. Wellington must first be a safe city at all hours and accommodate without conflict or harm the variety of people who use its space if it is to reach the goal of being a dynamic central city.

Wellingtonians and visitors need to develop a more respectful relationship with alcohol if its people are to be healthy and vibrant. To achieve this, a nudge in the right direction by reducing alcohol availability through increased controls on hours and density are required.

### **7. The initiatives proposed in the implementation Plan (attached to the draft strategy) will deliver on the strategic goals?**

## **Agree**

The draft Alcohol Management Strategy is an umbrella for all harm reduction actions taken and includes the Local Alcohol Policy. This submission has clearly identified and supported areas in the Local Alcohol Policy that are vital to harm reduction such as the reduced license hours, particularly the off-license hours and suggested more prescriptive measures for density such as sinking lid and capped premise numbers. The draft Alcohol Management Strategy must include these measures in the Local Alcohol Policy if it is to achieve its goals.

### **8. The initiatives proposed in the draft strategy will contribute to communities having a healthier relationship with alcohol**

## **Uncertain**

A reduction in the hours and density of alcohol are the best evidenced-based tools we have for reducing harm and initiating a healthier relationship with alcohol. It is important that the Local Alcohol Policy adopt more stringent measures to limit the availability of alcohol using sinking lid and capped premise initiatives to reduce density in combination with reduced trading hours. First and foremost it is important to reposition alcohol as no ordinary commodity.

Resources to implement the strategy and commitment by all stakeholders will be necessary to achieve the goals.

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SUBMISSION No. **521**.....

Attention: Jaime Dyhrberg  
Community Networks  
Wellington City Council  
PO Box 2199  
Wellington 6011

Dear Jaime

**Re:**  
**Submission on The Right Mix:**  
**Draft Local Alcohol Policy and Draft Alcohol Management Strategy**

The Senior Medical Officers (SMOs) of the Wellington Department of Emergency Medicine have reviewed the draft LAP and thank you for the opportunity provide a written submission.

We have elected to comment on the key elements that may relate to changes in the harms related to alcohol that we see in Emergency Department. In particular matters in the LAP that is related to opening hours and supply of alcohol.

The Wellington Emergency Department continues to see an average of 30 primarily intoxicated patients per month and conservatively five times as many alcohol related injuries. These represent an entirely preventable form of harm, occurring in an otherwise healthy population. It represents a significant unnecessary financial and social burden upon our society. We are also is presentations related to alcohol harm from, chronic illness, cancer and social deprivation. Even a small reduction in these numbers through local intitatives would be of significant benefit to Wellington and New Zealand society.

We would also like to acknowledge and thank our colleagues in Regional Public Health for creating an outline document for us.

We acknowledge the amount of time and effort the WCC has put into the process and commend them for recognising that a change is needed and that there needs to be a reduction in alcohol related harm. We recognise the limitations of what can be achieved at a local level via the LAP.

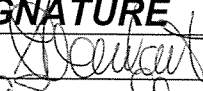
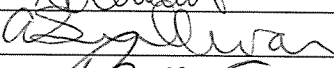
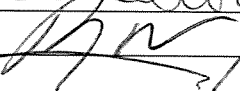
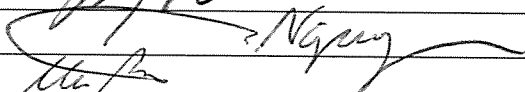
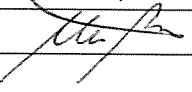
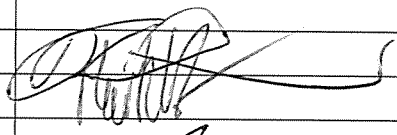
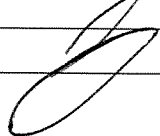
The contact point for this submission is:

Paul Quigley  
Consultant Emergency Medicine Specialist  
Hutt Valley and Wellington  
Departments of Emergency Medicine.



# Signatories

*We the undersigned support the following submission to the Wellington City Council.*

<b>NAME</b>	<b>SIGNATURE</b>
André Cromhout	
Anna Sullivan	
Brad Peckler	
Mai Nguyen	
Alan Barton	
Scott Bomann	
Penny Jeffery	
Daniel Watson	
Mark Hussey	
Vicki Vertongen	
Jay Amaranathan	

## **Section B: Submission Questions**

### **Wellington City Council Draft Local Alcohol Policy**

**1a**

**Under the proposed zone framework, late night trading activity of bars and entertainment venues will be moved into a specific Entertainment Precinct to better manage the harm associated with trading at this time.**

Creating an Entertainment Precinct:

#### Agree with Reservations

It is the Emergency Department's opinion that we have seen benefit in the risk management of alcohol harms through the use of concentrated resources within an "Entertainment Precinct". This has been especially noted at time of High Risk such as the Rugby 7's tournament.

However, it's success on a day-by-day or weekend-by-weekend basis is dependent not only on the trading activities of the bar and entertainment venues but upon the there being additional resources to support them in particular

- Adequate street lighting to reduce rates of physical and sexual assault
- Adequate public transportation in and out of the Entertainment Precinct
- Adequate public facilities such as toilets, so that on-licence venues are not the sole source of convenience.
- That there is additional safety measures in place aimed at reducing glass injuries and falls.



## 1c

**The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafes).**

### *Entertainment Precinct*

7am-3am

7am-5am maximum for best-practice premises:

### *Central Area*

7am-2am

7am-3am maximum for best-practice premises:

### Disagree

While the Emergency Department supports the idea of recognising a difference between the areas of entertainment and nightlife within the city, Suburban, Central and, Entertainment. We express concerns over the benefits versus harms of extending opening hours.

While merit is granted to the idea of encouraging Best Practice philosophy for hospitality providers, we express concern that it has not been clearly established exactly what this standard would be or how failure to reduce harm would addressed.

Data from our Emergency Department shows that there is a burden of health related harms that is increased from 2am. Because of this the Emergency Department supports the Police in their position that the maximum hours should be no later than 3am.

### *Suburban Centre*

7am-midnight maximum:

### Strongly Agree

We support the WCC In restricting suburban hours to midnight.

## 1d

**The proposed maximum trading-hour restrictions of 7am-9pm for off-licensed venues (supermarkets, grocery stores, bottle stores).**

### Strongly Agree

The SMOs of the WED strongly support any reduction in the community supply of alcohol that can occur.

Reduction in the amount of alcohol available to the community during the high-risk hours of intoxication and harm will likely have a significant impact on the some of the extreme cases we see.

We believe that by forcing people to consider and plan their consumption for socialising and entertainment it will bring an end to the continual "top-up" phenomena that we experience as a source of admission to hospital.

1e

**Supermarkets, grocery and bottle stores (all off-licence venues) should be treated the same despite the different range of products they sell.**

Strongly Agree

All off-licence sources of alcohol supply are utilised by the patient group attending the Wellington Emergency department. On interview with patients presenting with intoxication one of the common driving forces in purchasing is price and availability. Supermarkets represent a very real source of pre-loading and even side loading alcohol.

The product range available in supermarkets provide very little deterrent and is not “safer” than other forms of alcohol.

In particular we have established that wine in particular is placing young women at risk. The average bottle of wine contains up to 7 to 8 standard drinks and being available for as little as \$10.00 a bottle is in fact very high risk.

Supermarkets should face the same restrictions as all other off-licence venues.

1f

**The Council will look closely at applications for the sale and supply of alcohol at youth-focused occasions or events, or those likely to attract people under the legal purchase age of 18 years.**

Council focus on applications for youth-focused occasions or events:

Agree with Reservations

We have established clear evidence that increased harm occurs in patients who present with intoxication children and young people under the age of 18. Therefore, ensuring that ALL large events are scrutinised to ensure that they have systems to prevent the purchase of alcohol by children and young people under the age of 18.

We have concerns that trying to “second guess” what events would be more popular to youth than others means that some events may be missed.

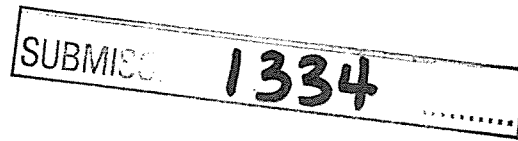
The Wellington Emergency Department also requests that the Wellington City Council considers in it's Regional Alcohol Management Plan that there is a mechanism of notification related to any events requesting “special licences” or involving large numbers of participants.

We have clear evidence that these alcohol-fuelled events increase our night-time patient workload and require planning and staff allocation. There have been studies performed by the Otago School of Medicine demonstrating that intoxicated patients have a significant impact on the wait times and treatment delays to non-intoxicated patients.

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Attention: Jaime Dyhrberg  
Community Networks  
Wellington City Council  
PO Box 2199  
Wellington 6011



Dear Jaime

**Re:**  
**Submission on The Right Mix:**  
**Draft Local Alcohol Policy and Draft Alcohol Management Strategy**

We the undersigned Resident Doctors of the Wellington Department of Emergency Medicine support the following recommendations from the Wellington City Council Draft Local Alcohol Policy.

**1c**

**The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafes).**

*That there should be **midnight** closing in the **suburbs** of Wellington.*

*That there should be a uniform closing time of **0300** in the Central City and Entertainment Zone*

**1d**

**The proposed maximum trading-hour restrictions of 7am-9pm for off-licensed venues (supermarkets, grocery stores, bottle stores).**

*Maximum trading-hour restrictions of 7am-9pm for off-licensed venues*

**1e**

**Supermarkets, grocery and bottle stores (all off-licence venues) should be treated the same despite the different range of products they sell.**

*We strongly support the motion that all off-licence venues should be treated the same.*

*There is no additional safety in the range of product they supply or in the method of sale.*

*Supermarkets and grocery stores should face the same trading-hour restrictions as bottle-stores.*

The contact point for this submission is:

Paul Quigley  
Consultant Emergency Medicine Specialist  
Hutt Valley and Wellington  
Departments of Emergency Medicine.

A handwritten signature in black ink, appearing to read 'Paul Quigley', written over a white background.



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Attention: Jaime Dyhrberg  
Community Networks  
Wellington City Council  
PO Box 2199  
Wellington 6011

Submission No. **1333**

Dear Jaime

**Re:**  
**Submission on The Right Mix:**  
**Draft Local Alcohol Policy and Draft Alcohol Management Strategy**

We the undersigned nurses of the Wellington Department of Emergency Medicine support the following recommendations from the Wellington City Council Draft Local Alcohol Policy.

**1c**

**The proposed maximum trading-hour restrictions for on-licensed venues (bars, restaurants, cafes).**

*That there should be **midnight** closing in the **suburbs** of Wellington.*

*That there should be a uniform closing time of **0300** in the Central City and Entertainment Zone*

**1d**

**The proposed maximum trading-hour restrictions of 7am-9pm for off-licensed venues (supermarkets, grocery stores, bottle stores).**

*Maximum trading-hour restrictions of 7am-9pm for off-licensed venues*

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*Supermarkets and grocery stores should face the same trading-hour restrictions as bottle-stores.*

The contact point for this submission is:

Paul Quigley  
Consultant Emergency Medicine Specialist  
Hutt Valley and Wellington  
Departments of Emergency Medicine.

Craig Jenkin  
Associate Charge Nurse Manager  
Wellington Emergency Department



The Green Man Pub  
(Streedagh Limited)

SUBMISSION ON  
Wellington City Council Draft Local Alcohol Policy  
2 August 2013

*230*  
*8th Aug*  
*3.50pm*

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Cnr Victoria and Williston Street  
PO Box 11-528  
Wellington

Ph 0274 881 994

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## **Our Business**

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The Green Man Pub is a Gastro Bar which has been operating in Wellington City since 2008. We currently employ 30+ staff.

The Green Man Pub trades from 7am until 3am, and meets a variety of needs from breakfast, lunch and dinner to offering late night entertainment on Thursday and Fridays. Most of the Green Mans trade occurs well before 3am. However a very important aspect of the Green Man's business is corporate functions and private parties which often require the Green Man to stay open until 3am. The Green Man also caters to late night after match functions for local sports teams such as the Central Pulse, Hurricanes and Wellington Lions which often require the Green Man to trade until 3am and close its doors at 3.30am (when considering the current ½ hour licensing wind down period)

### About the Green Mans Owners

- Steve Drummond has 20 years' experience in Hospitality has worked as a Regional Business Development and Acquisition Manager for DB Breweries and has extensive knowledge of how Liquor suppliers and on and off licensed businesses operate, including a thorough understanding of their respective competitive sales and marketing strategies.
- Ciaran O'Kelly has been in New Zealand for over 10 years, immigrating from Ireland and has 12 years of Hospitality Management experience.

We appreciate the opportunity to make a submission on the draft Local Alcohol Policy (LAP). The Green Man Pub takes host responsibility very seriously and we strive to offer a professional, responsible and safe hospitality environment.

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## Introduction

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It is generally accepted that owners of on-licensed establishments adhere to strict licensing criteria, and invest significantly in establishing vibrant businesses. If the LAP is to be implemented in its current form, the future these business owners face could be uncertain. As more businesses experience hardship under trying financial conditions, it may also discourage innovative thinking which would be to the detriment of the industry and Wellington City.

On-premise operators are highly regulated; running controlled managed environments, and are trained and prepared to deal with issues of intoxication and potential underage drinkers. Host Responsibility requirements are stringent and heavily monitored by Police, Council and other regulatory agencies. There are ample tools available under the new Sale and Supply of Alcohol Act 2012 for authorities to deal with irresponsible operators without having to try and invent a vast array of new or onerous conditions.

## The Current Landscape

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New Zealand has a vibrant hospitality industry ranging from the historic heartland isolated good 'ol kiwi establishments, to the funk and sophistication of inner city up market bars, cafes and restaurants. The industry for many New Zealand small business owners is relied upon as a form of livelihood and also serves as a substantial employer for what mainly is young New Zealanders (18-25 years old).

However; over recent years there seems to be a trend of more and more establishments; from bars to cafes and restaurants, closing their doors or regularly changing hands due to the non-viability of operating the businesses anymore.

It seems the incentive for patrons to go out and enjoy an evening in a licensed establishment, is being far outweighed by the convenience, variety and price of purchasing alcohol from a bottle store, supermarket or corner store for consumption elsewhere. Combine this with New Zealand's legal purchasing age controversially being at 18 for the past 10 years; it begs the question "are we fuelling a fire of culture which is already frowned upon by so many of our public?"

<p>It would seem sensible that any LAP in encourages people socializing, to be in a controlled licensed environment where they are being supervised by trained responsible hosts.</p>
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# Wellington City Council Draft Local Alcohol Policy

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We would like to make the following comments regarding the Draft Policy.

## 1. Entertainment Precinct

The Policy proposes that an 'Entertainment Precinct' will be created encompassing Courtenay Place and Cuba St with the ability to trade later in this area than in the wider CBD.

The Green Man falls outside of the Entertainment precinct. The restriction proposed on premises outside of the entertainment precinct means that premises located outside of the Entertainment precinct will become less attractive as a destinations for patrons who wish to socialise after major events and conferences and limits the Green Mans ability to offer functions and cater to these events .

The Green Man is currently not considered a high risk premises. The proposed entertainment precinct plan subsequently labels the Green Man as a High risk premises and the subsequent restrictions proposed will have a significant negative impact on the Green Mans business.

- **EXAMPLE EVENTS:**

- Patrons who attend local events which frequently finish after 9.30-10pm often don't arrive back in the bar until 10.30pm or 11pm. The proposed precinct restrictions will mean that many patrons will by-pass the Green Man because there is little point in moving to a bar that is outside of a designated precinct and has to close early or has unreasonably restrictive conditions such as a wind down hour purely because of it's location (adjacent to a Police station).

- **BARS ARE CAPABLE GUARDIANS OF THE CITY**

- During large events in particular the Bars throughout the City provide an important level of Guardianship and safety. Closing bars early in the CBD will cause dead spots and the large displacement of patrons will me them targets for those individuals who look for trouble?
- Over the last five years Green Man staff has reported 3 vandalism offences which have occurred on local streets and have been unrelated to alcohol or a licensed premises.
- Another good capable guardianship example is at Glover Park, which has been redeveloped and a bar now operates providing a capable guardian service to those who pass through or use the area.

- **Functions and Catering**

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  - For example the green Man recently hosted the following events which under the new precinct plan it would no longer be able to host

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- An Engagement party for a local Prominent Sports person who had family traveling from overseas and nationally. They wanted to spend the night together in a premises away from the hustle and bustle of Courtenay Place and Cuba Street.

People should not be restricted from being able to choose a hospitality venue outside of the busy Courtenay place or Cuba Street precinct particularly when they don't want to be in a busy entertainment precinct.

Forcing patrons in to one area creates a peak density and "Mosh Pit" mentality which encourages Mosh Pit behaviour. This is contrary to the intent of the Act and the LAP.

### **Recommendation**

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 The current CBD wide 3am-6am licensing structure works well and under the proposed maximum 5am license a similar 3am-5am CBD wide licensing regime proposed below would be effective.

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On evenings where the Green Man and similar premises do trade until 3am patrons naturally disperse, supported by staggered demand for public transport, taxis and or transition to other premises. Forcing patrons on to the street at 2am to compete for transport options or encouraging them to move on to a late night precinct will cause issues. This is an adverse effect when compared to the currently are none under the current licensing hour regime works perfectly well.

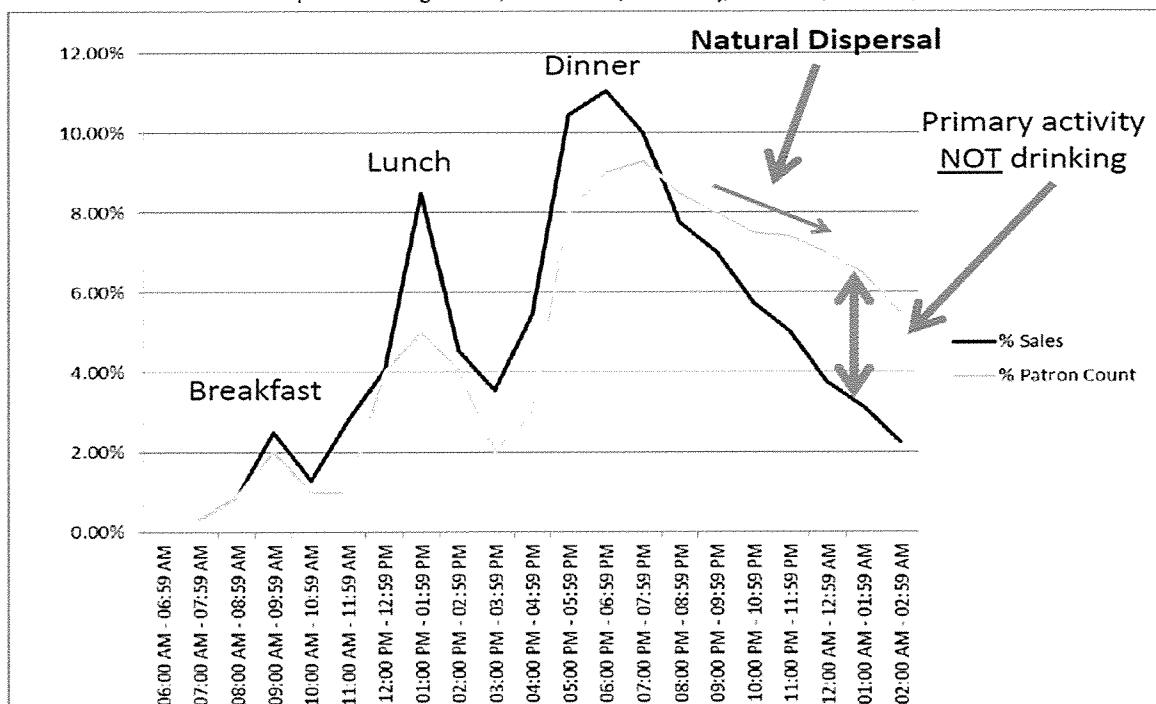
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**3 AM -CBD Premises Average Sales vs. Patron Percentages  
(FUNCTIONS & EVENTS ONLY)**

30<sup>th</sup>/40<sup>th</sup> Birthdays, Weddings/Engagement Parties, Corporate functions,  
(Note: Similar for Major Sports. AFL, All Blacks, Sevens, Concerts etc)

Sample: Cambridge Hotel, Green Man, Old Bailey, Concrete, The Pub,



The proposed hours and precincts in the LAP appear to be more of a case of policy for the sake of policy!

**RECCOMENDATION**

*We believe the minimum hours should be:*

*Suburban 7am - 1am*

*City 7am - 3am (with later hours of 5am available for all CBD operators who have traded for their first year with no issues)*

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There are a number of conditions proposed for licences. See pages 30-33 of the draft policy.

Our view on the proposed conditions is that the LAP is trying to use a sledge hammer to crack a nut!

As indicated by the Police most of Wellington's on-premise market is managed well and provides a capable guardian type service to the City.

Increasing the regulation and conditions of the On-premise market will simply support a widening of the gap between on and off premise consumption further fuelling the issue of pre loading.

We comment on the following LAP proposed conditions

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- **LIMITING THE NUMBER OF DRINKS TO BE PURCHASED**

There is no evidence that restricting the number of drinks to be served will have any positive benefit. It is an impractical suggestion which means that a person who wishes to purchase drinks for their dining table or a business manager who wishes to shout his staff a drink for a job well done will be restricted from doing so. Such a concept would only be useful in a booze barn environment and is somewhat Jurassic in its thinking. Wellington's hospitality operations are far more sophisticated than that!

Suggesting that an on premise outlet should have a limit whilst an off premise outlet can sell alcohol by the dozen, by the case or even by pallets to customers is frankly absurd. This type of suggestion implies a fundamental failure of policy writers when trying interpret the relevant issues of alcohol relate harm and will simply add fuel the binge drinking/pre loading culture!

- **ONE WAY DOOR AND OTHER CONDITIONS**

The one way door policy as well as many other conditions appear similar to Christchurch's LAP proposal

It is important to then consider The Christchurch Cost Benefit Analysis Summary conducted by a professional firm contracted by the Christchurch City Council which made the following points...

### **SUMMARY FROM CHCH Cost Benefit Analysis.**

Overall, our analysis suggests that economic costs will outweigh benefits because:

- ⊙ While the international literature has shown that reductions in opening hours can help reduce ARH, reductions in consumption caused by the LAP will be minor and hence so too will any reductions in acute ARH. As a result, policy benefits will be minor.
- ⊙ At the same time, the policy could have a number of unintended consequences, including undermining the viability of rebuilding licensed premises in the CBD.
- ⊙ In addition, it will impose additional costs on many licensed premises, and unduly disadvantage a number of very low-risk premises, such as wineries.
- ⊙ The key issue is that – while very difficult to do within the ambit of a LAP – the policy fails to address the key drivers of acute harm, namely our binge drinking culture coupled with a tendency to pre-load.
- ⊙ Further, the policy appears too coarse, and may not adequately reflect the relative harm caused by different types of licensed premises. A more fine-grained approach should be considered.
- ⊙ A significant amount of ARH occurs in the home, and the policy is unlikely to provide much assistance with this. Conversely, regulating the density of outlets in certain areas may have positive effects, but these have not been included.
- ⊙ There is no evidence to support or oppose the proposed off-licence restrictions. Further, council does not appear to have a strong community mandate for reducing the hours that alcohol can be sold at certain off-licenses, such as supermarkets.
- ⊙ Because the policy does not (and essentially cannot) target problem drinkers, it is fairly blunt and therefore has the potential to negatively impact a number of law-abiding citizens.

*In Wellingtons case the likely cosy associated with the proposed LAP is 500 hospitality jobs and \$41 million in trade for the City alongside the likely loss of many of Wellingtons world class Hospitality operations like Sandwiches.*

*To risk all of this for sake of 1% benefit is of great concern.*

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#### **THERE IS ALREADY A THREE STRIKES RULE !**

*There are ample tools in place already in legislation to address any problem premises. For example the three strikes within three years and you're out rule is sufficient for dealing with any operators that flout their host responsibility. The proposed conditions need to be thrown out and reconsidered in consultation with a suitably experienced and unbiased group of council officers, operators, the liquor licensing sergeant and the medical officer*

#### 4. Off-Licences

The Policy proposes 7am- 9pm trading hours for all off-licences. There also appears to be the suggestion in the Council submission form that the Council may be considering treating supermarkets differently to other off-premise licences.

We believe all off-licences should be treated equally.

The LAP process to date has identified pre-loading as the primary issue when dealing with alcohol related harm.

Despite the Retailers trying to suggest that it's the last drink in a bar that is the issue I am hopeful that Council, Police and Medical can see the wood for the trees on this issue

If the LAP wishes to address pre loading then it must first understand what economic conditions are causing pre loading and then address the economic levers concerned.

The issue of pre loading is an economic one whereby the New Zealand Alcohol market effectively suffers from the adverse effects of a partial Duopsony.

A Duopsony is an economic condition, similar to a duopoly, in which there are two large buyers for a specific product or service. Members of a Duopsony (in this case Progressives and Foodstuffs) have great influence over sellers (Breweries and Wine Companies) and can effectively lower market prices for their supplies. Also known as "buyer's duopoly".

In NZ, Progressives and Foodstuffs are the large buyers who own or control the majority of Supermarkets in NZ and some bottle stores, they have significant influence over the Breweries and Wine Companies who also control the main supply of sprits and RTD's.

Progressive Enterprises also owns Liquor Land, Lion Nathan own Liquor King and Independent Liquor now own the Mill Liquor Save. Essentially either directly or indirectly the two duopsony players have a significant influence over how these players behave.

Because the two larger players are primarily focused on price, and the fact alcohol is an attractive purchase for patrons, supermarkets subsequently regularly compete fiercely using beer and wine pricing to gain market share hoping that shoppers will make complimentary purchases as they walk through the supermarket. It is the primary reason alcohol is at the very end isle in Supermarkets, forcing people to walk past every other isle to get to it.

Importantly in this Duopsony style market, If a supplier to these two large retailers does not "play along" with the Duopsony players then the supplier risks being "taught a lesson" and being ostracized through reduced shelf space and or increased onsale pricing for their products. The Suppliers often risk losing up to 3-4% or more of the local market share over a very short period.

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Bottle stores point of difference against Supermarkets has been spirit based alcoholic products. Uniquely in New Zealand, RTD's were supported and created to compete with the low priced supermarket beer and wine market. Bottle stores had a saviour in RTD's which had the adverse effect of changing the behaviour of predominantly younger drinkers to RTD's whilst giving bottle stores a life line and retuning customers to their stores. Some RTD's have alcohol percentages over 8%.

This economic phenomenon is the primary cause for the low pricing in off premise which has subsequently resulted in today's pre loading culture and consumer expectations that alcohol should be freely available at very low cost. The result has been massive growth in the off premise market low cost liquor market which now accounts for 75% of all alcohol sales in New Zealand and is growing.

Our position is supported by the following information; New Zealand over the past 20 years has become particularly relevant with alcohol becoming more affordable, comparative to our incomes. Two statistics that really stand out are:

### Over the 20 years to 2009:

- Average weekly incomes have increased 82%
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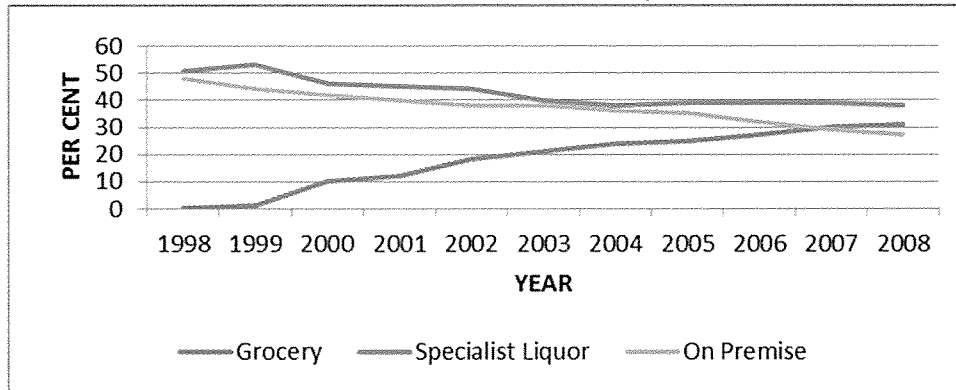
### Over the 10 years to 2009:

- On premise pricing has increased 47%
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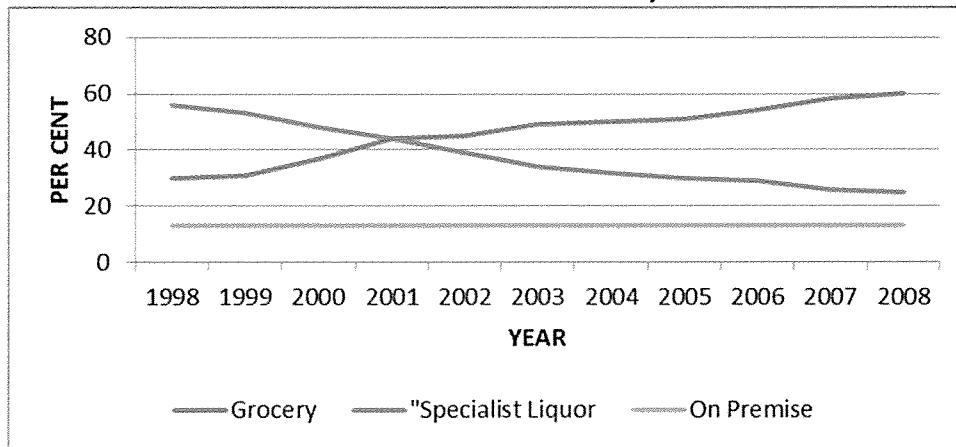
*(Law Commission Alcohol in Our Lives 2009, p152)*

In 1989 supermarkets were granted the right to sell wine followed by beer 10 years later. *(Sale of Liquor Amendment Act 1999)* to show what a key channel supermarket businesses have become for beer and wine sales, Figures 2.5 and 2.6 show the sharp increases in volume share for both beer and wine in supermarkets at the expense of in particular specialist liquor stores. It is estimated that they now sell over 40% of beer and 65% of wine consumed in New Zealand.

**Volume Share of Total Beer Sales by Channel**



**Volume Share of Total Wine Sales by Channel**



The purchasing power of these two supermarket giants has been identified as a key factor in the increased competition in the off premise market, in turn driving prices down. This may seem great from a consumer perspective but with our drinking culture under the spotlight it becomes a real concern particularly when over 75% of alcohol purchased is consumed away from licensed or supervised premises.

If Wellington City genuinely wishes to address alcohol related harm caused by pre loading then they must focus on a strategy to address pricing whilst also allowing the Duopsony players to maintain and continue to grow profit through the sale of Alcohol.

***Recommendation:***

***A COMPULSORY CONDITION IN RISK ASSESSMENTS BEING A RECCOMENDED PRICE PER SERVE.***

*The rule should apply to both on and off licenses and all off Licenses should be treated equally. Importantly Off License premises should be entitled to a sustainable and reasonable profit when selling alcohol.*

*Whilst pricing cannot be addressed in an LAP, opening hours and location can. I propose that a primary risk factor when considering licensing and hours for licenses is a recommended minimum price per serve. Those that comply with the recommended minimum price per serve would be labelled low risk operations and be entitled to longer trading hours, less onerous conditions and*



*lower licensing fees. Minimum price should be set in consultation with the industry and should be reviewed annually.*

*Off Premise Licenses might sell less volume so it is important that a balance is achieved where the licensees continue to make the same and or grow profit (likely driven through higher margins)*

### **Further Comments**

There is a reason alcohol is often the subject of debate - it is not a commodity; it is a drug. As a drug the positive aspects are; in moderation and used responsibly, it can be used as an enjoyable relaxant in social situations, but the negative aspects of alcohol arise from the individuals who abuse moderate use causing harm to themselves and potentially others.

The LAP appears to have morphed in to an emotionally driven document which is more about an attempt to be seen to be writing policy that is perceived to make a difference than actually doing any good. The proposed conditions appear to be reasoned backwards supported by misguided moral judgements.

Combining 30 years of experience we genuinely believe the LAP in its current state will simply add fuel to the fire of the mistakes made in previous Acts which have led to a pre loading-binge drinking culture. Wellington City's Councillors must consider a cost benefit analysis.

Councillors risk becoming undertakers who put the final nail in the coffin for a City trying to shake off the "Dying City" label.

### **Conclusion**

The Green Man Pub thanks the Council for the opportunity to submit on the proposed Draft Local Alcohol Policy.

We ask the Wellington City Council to carefully consider the suggestions we have made in our submission.

If the Draft Policy were to pass in its current format it would have a significant negative impact on our business.

We would like to speak to our Submission.



Steve Drummond

*Application*

The Green Man Pub  
(Streedagh Limited)

SUBMISSION ON  
Wellington City Council Draft Local Alcohol Policy  
2 August 2013

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Cnr Victoria and Williston Street  
PO Box 11-528  
Wellington

Ph 0274 881 994

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## **Our Business**

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The Green Man Pub is a Gastro Bar which has been operating in Wellington City since 2008. We currently employ 30+ staff.

The Green Man Pub trades from 7am until 3am, and meets a variety of needs from breakfast, lunch and dinner to offering late night entertainment on Thursday and Fridays. Most of the Green Mans trade occurs well before 3am. However a very important aspect of the Green Man's business is corporate functions and private parties which often require the Green Man to stay open until 3am. The Green Man also caters to late night after match functions for local sports teams such as the Central Pulse, Hurricanes and Wellington Lions which often require the Green Man to trade until 3am and close its doors at 3.30am (when considering the current ½ hour licensing wind down period)

### About the Green Mans Owners

- Steve Drummond has 20 years' experience in Hospitality has worked as a Regional Business Development and Acquisition Manager for DB Breweries and has extensive knowledge of how Liquor suppliers and on and off licensed businesses operate, including a thorough understanding of their respective competitive sales and marketing strategies.
- Ciaran O'Kelly has been in New Zealand for over 10 years, immigrating from Ireland and has 12 years of Hospitality Management experience.

We appreciate the opportunity to make a submission on the draft Local Alcohol Policy (LAP). The Green Man Pub takes host responsibility very seriously and we strive to offer a professional, responsible and safe hospitality environment.

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## Introduction

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It is generally accepted that owners of on-licensed establishments adhere to strict licensing criteria, and invest significantly in establishing vibrant businesses. If the LAP is to be implemented in its current form, the future these business owners face could be uncertain. As more businesses experience hardship under trying financial conditions, it may also discourage innovative thinking which would be to the detriment of the industry and Wellington City.

On-premise operators are highly regulated; running controlled managed environments, and are trained and prepared to deal with issues of intoxication and potential underage drinkers. Host Responsibility requirements are stringent and heavily monitored by Police, Council and other regulatory agencies. There are ample tools available under the new Sale and Supply of Alcohol Act 2012 for authorities to deal with irresponsible operators without having to try and invent a vast array of new or onerous conditions.

## The Current Landscape

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New Zealand has a vibrant hospitality industry ranging from the historic heartland isolated good 'ol kiwi establishments, to the funk and sophistication of inner city up market bars, cafes and restaurants. The industry for many New Zealand small business owners is relied upon as a form of livelihood and also serves as a substantial employer for what mainly is young New Zealanders (18-25 years old).

However; over recent years there seems to be a trend of more and more establishments; from bars to cafes and restaurants, closing their doors or regularly changing hands due to the non-viability of operating the businesses anymore.

It seems the incentive for patrons to go out and enjoy an evening in a licensed establishment, is being far outweighed by the convenience, variety and price of purchasing alcohol from a bottle store, supermarket or corner store for consumption elsewhere. Combine this with New Zealand's legal purchasing age controversially being at 18 for the past 10 years; it begs the question "are we fuelling a fire of culture which is already frowned upon by so many of our public?"

<p>It would seem sensible that any LAP in encourages people socializing, to be in a controlled licensed environment where they are being supervised by trained responsible hosts.</p>
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# Wellington City Council Draft Local Alcohol Policy

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We would like to make the following comments regarding the Draft Policy.

## 1. Entertainment Precinct

The Policy proposes that an 'Entertainment Precinct' will be created encompassing Courtenay Place and Cuba St with the ability to trade later in this area than in the wider CBD.

The Green Man falls outside of the Entertainment precinct. The restriction proposed on premises outside of the entertainment precinct means that premises located outside of the Entertainment precinct will become less attractive as a destinations for patrons who wish to socialise after major events and conferences and limits the Green Mans ability to offer functions and cater to these events .

The Green Man is currently not considered a high risk premises. The proposed entertainment precinct plan subsequently labels the Green Man as a High risk premises and the subsequent restrictions proposed will have a significant negative impact on the Green Mans business.

- **EXAMPLE EVENTS:**

- Patrons who attend local events which frequently finish after 9.30-10pm often don't arrive back in the bar until 10.30pm or 11pm. The proposed precinct restrictions will mean that many patrons will by-pass the Green Man because there is little point in moving to a bar that is outside of a designated precinct and has to close early or has unreasonably restrictive conditions such as a wind down hour purely because of it's location (adjacent to a Police station).

- **BARS ARE CAPABLE GUARDIANS OF THE CITY**

- During large events in particular the Bars throughout the City provide an important level of Guardianship and safety. Closing bars early in the CBD will cause dead spots and the large displacement of patrons will me them targets for those individuals who look for trouble?
- Over the last five years Green Man staff has reported 3 vandalism offences which have occurred on local streets and have been unrelated to alcohol or a licensed premises.
- Another good capable guardianship example is at Glover Park, which has been redeveloped and a bar now operates providing a capable guardian service to those who pass through or use the area.

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- The Green Man will be far less attractive as a venue for private and corporate functions
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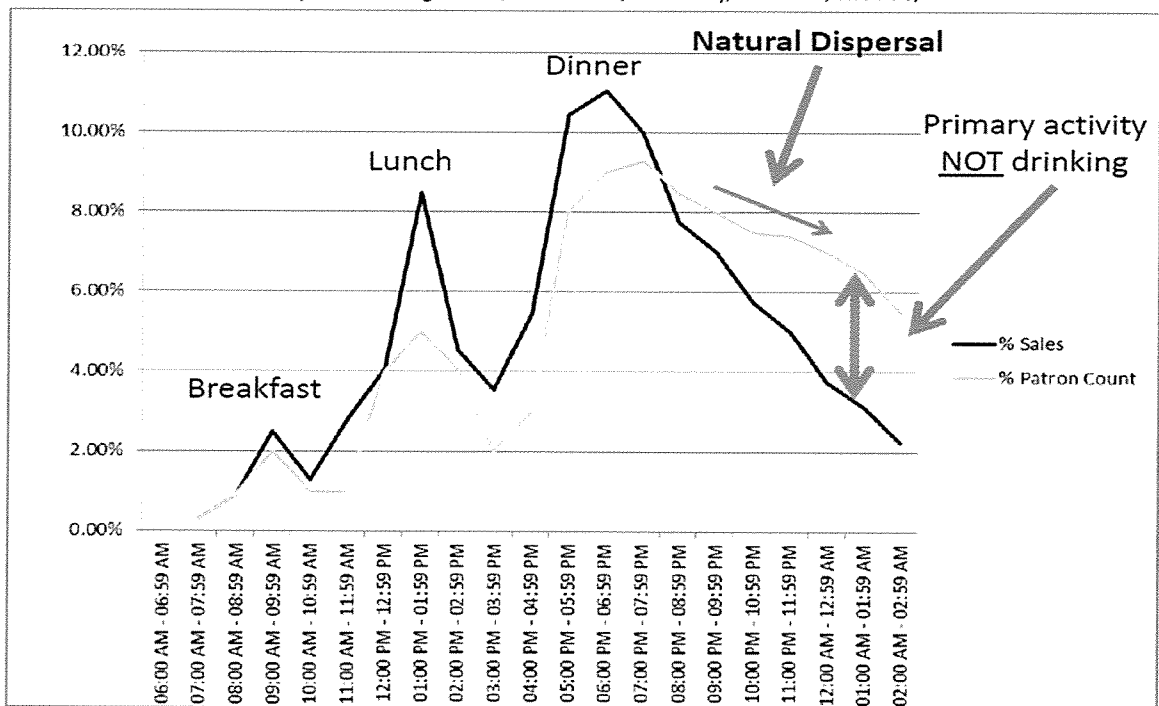
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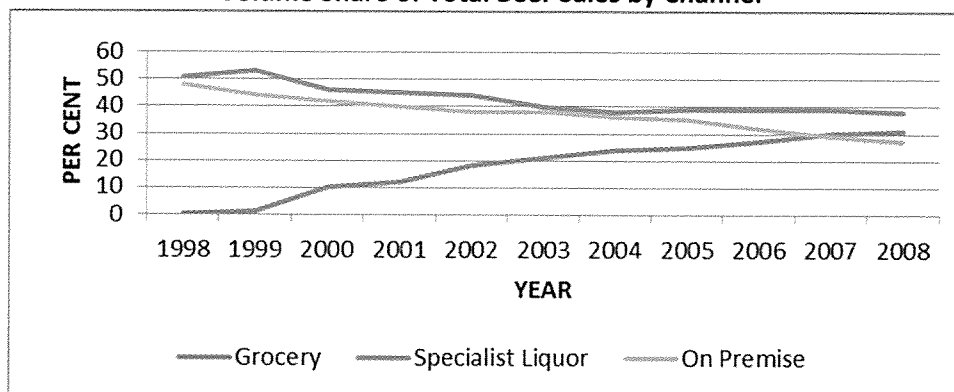
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- Off premise pricing has increased 20%

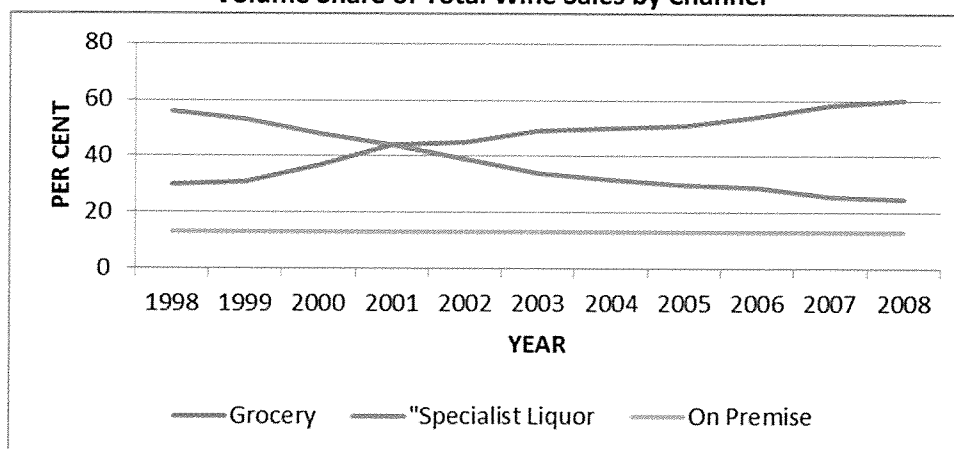
*(Law Commission Alcohol in Our Lives 2009, p152)*

In 1989 supermarkets were granted the right to sell wine followed by beer 10 years later. (*Sale of Liquor Amendment Act 1999*) to show what a key channel supermarket businesses have become for beer and wine sales, Figures 2.5 and 2.6 show the sharp increases in volume share for both beer and wine in supermarkets at the expense of in particular specialist liquor stores. It is estimated that they now sell over 40% of beer and 65% of wine consumed in New Zealand.

**Volume Share of Total Beer Sales by Channel**



**Volume Share of Total Wine Sales by Channel**



The purchasing power of these two supermarket giants has been identified as a key factor in the increased competition in the off premise market, in turn driving prices down. This may seem great from a consumer perspective but with our drinking culture under the spotlight it becomes a real concern particularly when over 75% of alcohol purchased is consumed away from licensed or supervised premises.

If Wellington City genuinely wishes to address alcohol related harm caused by pre loading then they must focus on a strategy to address pricing whilst also allowing the Duopsony players to maintain and continue to grow profit through the sale of Alcohol.

**Recommendation:**

**A COMPULSORY CONDITION IN RISK ASSESSMENTS BEING A RECCOMENDED PRICE PER SERVE.**

*The rule should apply to both on and off licenses and all off Licenses should be treated equally. Importantly Off License premises should be entitled to a sustainable and reasonable profit when selling alcohol.*

*Whilst pricing cannot be addressed in an LAP, opening hours and location can. I propose that a primary risk factor when considering licensing and hours for licenses is a recommended minimum price per serve. Those that comply with the recommended minimum price per serve would be labelled low risk operations and be entitled to longer trading hours, less onerous conditions and*

*lower licensing fees. Minimum price should be set in consultation with the industry and should be reviewed annually.*

*Off Premise Licenses might sell less volume so it is important that a balance is achieved where the licensees continue to make the same and or grow profit (likely driven through higher margins)*

### **Further Comments**

There is a reason alcohol is often the subject of debate - it is not a commodity; it is a drug. As a drug the positive aspects are; in moderation and used responsibly, it can be used as an enjoyable relaxant in social situations, but the negative aspects of alcohol arise from the individuals who abuse moderate use causing harm to themselves and potentially others.

The LAP appears to have morphed in to an emotionally driven document which is more about an attempt to be seen to be writing policy that is perceived to make a difference than actually doing any good. The proposed conditions appear to be reasoned backwards supported by misguided moral judgements.

Combining 30 years of experience we genuinely believe the LAP in its current state will simply add fuel to the fire of the mistakes made in previous Acts which have led to a pre loading-binge drinking culture. Wellington City's Councillors must consider a cost benefit analysis.

Councillors risk becoming undertakers who put the final nail in the coffin for a City trying to shake off the "Dying City" label.

### **Conclusion**

The Green Man Pub thanks the Council for the opportunity to submit on the proposed Draft Local Alcohol Policy.

We ask the Wellington City Council to carefully consider the suggestions we have made in our submission.

If the Draft Policy were to pass in its current format it would have a significant negative impact on our business.

We would like to speak to our Submission.

Steve Drummond