

Toolbox examples for 2.2 Step 2

Example of a report structure for the Medical Officer of Health or delegate

This is an example of a report structure for situations where the Medical Officer of Health or their delegate intends to draft a comprehensive report. It should not be relied on for legal principles.

File: [Name]

Application Number:

For Enquiries: [Name and contact details]

[Date]

The Secretary

District Licensing Committee

[Name of council]

[Address]

Attention: [Name of licensing inspector]

Dear Sir/Madam

APPLICATION FOR RENEWAL OF AN ON-LICENCE

APPLICANT:

PREMISES:

Please receive the following Medical Officer of Health report prepared under the provisions of the Sale and Supply of Alcohol Act 2012 (the Act)

1. Introduction

- Should be concise and to the point.
- Sets out the context to the report including compliance (or otherwise) with the statutory reporting timeframe.
- States whether the report should be read in conjunction with any other report.
- States clearly whether the application is opposed.
- States whether an appearance is sought or if the writer is content for the matter to be determined 'on the papers'.

Example "The applicant in this matter seeks a renewal of the on-licence. The application was forwarded to the Medical Officer of Health for report on (date). The application was opposed in an interim Medical Officer of Health report dated (date). This report reaffirms opposition to the renewal of the licence but is intended to be read in conjunction with the earlier report. The Medical Officer of Health considers a public hearing is required."

2. **Summary of issues and relevant legislation**

- Summarises the reasons for opposition to the licence application and aligns this with the relevant section of the Sale and Supply of Alcohol Act 2012.
- Assists the reader in aligning all the information with the specific problems.
- Should be completed early as it gives structure and direction to the rest of the report.

Example "Opposition to the renewal of this licence relates to two principal areas of concern under the Sale and Supply of Alcohol Act 2012:

They are the:

- service of alcohol to intoxicated persons and allowing persons to become intoxicated on the premises
- failure of the licensee to comply with conditions (a) and (h) of the licence."

[Include relevant sections of the Act and/or licence].

3. **Visit to the premises, interviews with the licensee, summary of other evidential material, etc**

- Summarises visits to the premises.
- Includes times, dates, etc.
- Gives the name of the duty manager at the time of visit and whether this was formally notified.
- Provides relevant observations of the premises including what was going on at the premises at the time of the visit.
- States what occurred in the course of the visit (keep it relevant).
- Provides other observations relevant to the issues that have given rise to the action.
- Reports on any relevant discussion with the licensee or duty manager or staff member.

- Reports on visits/observations of other public health staff, agencies, etc.
- Includes relevant and reliable literature/studies/statistics.

4. Analysis of the issues in the context of the relevant sections of the Act

- Includes an analysis of the issues from the perspective of the Medical Officer of Health.
- Should make the connection between the observations and evidence and the relevant sections of the Act.
- May draw on research but this must be properly referenced and its relevance clearly and simply articulated.
- May draw on, and argue the relevance of, case law – this should be properly referenced.

5. Conclusion

- Should not introduce any new information.
- Will contain a firm position that follows as a logical progression analysis/reasoning to the recommendation(s)
- Will contain a firm position even if that position is simply that, given the issues involved, it is considered appropriate that the Authority have the opportunity to consider the matter.

6. Recommendation

- Should not 'ask' the committee to take a particular course of action, as this is a recommendation only.
- Could signal if there is a course of action that the licensee could take that could mean opposition to the application would be withdrawn ie, the recommendation would be changed.
- Could also signal whether the writer wishes to appear before the committee or is content for the matter to be considered 'on the papers'.

Yours faithfully,

[Name of Medical Officer of Health or delegate]

Example of a report structure for an inspector

This is an example of a report structure for a comprehensive inspector's report. It should not be relied on for legal principles.

Sale and Supply of Alcohol Act 2012

INSPECTOR'S REPORT Section 103(2)

This is a report on an application for a licence for premises situated within the [xxx] licensing jurisdiction

**SUBJECT: APPLICATION FOR ON-LICENCE
SECTION 99 SALE AND SUPPLY OF ALCOHOL ACT 2012**

APPLICANT:

PREMISES:

ADDRESS:

1. Executive summary

This new licence application was received on DATE.

The application has resulted from a change in ownership of the premises. The premises are currently trading under a temporary authority granted on [date].

The premises are located in [description of location]. There is no reason to believe that the issue of this licence will disadvantage any neighbouring landowner or occupier.

The applicant seeks the same terms and conditions as the licence currently in force on the premises. I consider that the sale and supply of alcohol under these conditions is consistent with the purpose of the Act and meets the criteria at ss 105 and 106 of the Act.

I do not object to the application being granted.

OR

The applicant seeks conditions consistent with an on-licence for the area. As such I consider that the sale and supply of alcohol under these conditions is consistent with the purpose of the Act and meets the criteria at ss 105 and 106 of the Act.

No opposition or concerns have been raised by any of the reporting agencies. No public objections have been received.

2. Information for the applicant

This report and the information contained in it detail the inspector's understanding of the nature of the business and have been used to establish the type of alcohol licence appropriate for the business.

3. The application

The previous use of these premises was [state]. They had not previously been licensed.

The premises are currently trading by means of a temporary authority, pursuant to licence [number], issued by this committee. That authority's commencement date was [date] and expires on [date].

The renewal application for the existing on-licence was lodged on [date], within the prescribed timeframe, and has been held pending the outcome of this fresh application.

The principal nature of this business as stated on the application is: [type].

4. The applicant

The applicant is a private company: [Name] and was incorporated under the Companies Act 1993 on [date].

The directors are: [Names]

The shareholders are: [Names]

[Name] will have hands-on involvement in the day-to-day operation of this business. [Describe applicant's background in the industry]

I have met with the applicant and made clear to them their responsibilities under the Sale and Supply of Alcohol Act 2012.

5. Days and hours sought

The national default maximum trading hours are 8am to 4am. The applicant has sought the following hours:

- Monday to Sunday [times] the following day

These trading hours are also subject to the mandatory conditions prescribed for sacrosanct days under s 47 (Sale and supply on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day restricted: on-licences).

It is noted that this hotel does not provide mini-bars in the accommodation areas, so the exemption stated in s 46(3) does not apply.

OR

It is noted that this hotel provides mini-bars in the accommodation areas, so the exemption stated in s 46(3) applies.

6. Licensed area

The principal entrance for the purposes of display of signage and a copy of the licence is LOCATION, as shown on the floor plan provided by the applicant.

A copy of the licence must be displayed at the main entrance. This is marked on the floor plan provided.

The licensed area includes: *[description – interior and exterior]*.

The design and layout of the premises are suitable for the proposed use as per the floor plan provided.

The applicant is reminded that alcohol can only be sold and supplied within the area marked on the plan.

7. Planning and building matters

The premises are situated in an area zoned *[state]* in the City/District Plan.

A Certificate of Compliance pursuant to s 100(f) of the Sale and Supply of Alcohol Act 2012 was issued on *[date]*, which states that the premises meet the requirements of the Building Act 2004, Building Code and Resource Management Act 1991.

The applicant has signed a statement that the building in which the premises are situated **has an evacuation scheme** for the public's safety that meets the requirements of s 21B of the Fire Service Act 1975.

OR

The applicant has signed a statement that the building in which the premises are situated **does not require an evacuation scheme** for the public's safety, or the building is exempt from having to meet the requirements of such a scheme.

8. Designation

A TYPE designation has been sought. I consider this appropriate for the premises.

OR – Record if you do not consider the designation sought is appropriate and why.

9. Duty managers

The application lists the following duty managers:

The applicant is reminded that the duty manager is responsible for compliance with the conditions of the licence and enforcement of the Act at all times.

10. Appointment of duty managers – responsibility of the licensee

The licensee is responsible for appointing duty managers. The licensee must notify the district licensing committee and the Police of the appointment or termination of employment of any certificate-holding

duty manager. This must be done using a Notice of Management Change form. These forms are available on our website [*include council's website address*]:

Acting/temporary duty managers

Acting or temporary duty managers must have their full name displayed. Applicants must notify the agencies using the Notice of Management Change form if the appointment of an acting duty manager is for more than 48 hours. Applicants must always notify the agencies of the appointment of a temporary duty manager.

Record of appointment of duty managers

A licensee must keep a record of appointments, in a form that is readable or retrievable and meets the information requirements in the Regulations made under this Act.

11. Assessment criteria: ss 105 and 106

- s 105(1)(a) Would the granting of the application assist in achieving the object of the Act, which is that:
- the sale, supply and consumption of alcohol should be undertaken safely and responsibly
 - the harm caused by the excessive or inappropriate consumption of alcohol should be minimised?

ANSWER

- s 105(1)(b) Is there any information available to show that the applicant is unsuitable to hold a licence?

ANSWER

- s 105(1)(c) Is there any conflict between what is being applied for and the requirements of the current local alcohol policy?

ANSWER

- s 105(1)(d) Are there any concerns relating to the days and hours sought during which it is proposed that alcohol will be sold?

ANSWER

- s 105(1)(e) Any additional comment about the design and layout of the premises?

ANSWER

- s 105(1)(f) Describe the nature of any goods the applicant intends to sell other than alcohol, low-alcohol refreshment, non-alcoholic refreshments and food.

ANSWER

s 105(1)(g) Describe the nature of any services the applicant intends to provide, other than those directly related to the sale of alcohol, low-alcohol refreshment, non-alcoholic refreshments and food.

ANSWER

s 105(1)(h) Will the good order and amenity of the locality likely be reduced, by more than a minor extent, by the effects of the issuing of this licence?

ANSWER

s 106(1)(a)(i) What are the current, and possible future, noise levels? Is the operation of the premises likely to increase noise levels to more than a minor extent?

ANSWER

s 106(1)(a)(ii) What are the current, and possible future, levels of nuisance and vandalism? Is there a potential that levels of nuisance and vandalism will increase to more than a minor extent?

ANSWER

s 106(1)(a)(iii) How many premises with the same type of licence are in the locality? What potential effects will the addition of these premises have on the area?

ANSWER

s 106(1)(b)(ii) What is the neighbouring land used for? Will that use change if these premises are established?

ANSWER

s 105(1)(i) Are the amenity and good order of the locality already so badly affected by the effects of the current licences in the area that:

- s 105(1)(i)(i) the issuing of this licence would be unlikely to reduce the amenity and good order of the locality further; but
- s 105(1)(i)(ii) it is nevertheless desirable not to issue this licence?

ANSWER

s 105(1)(j) Does the applicant have the appropriate systems, staff and training to comply with the law?

ANSWER

s 105(1)(k) Reports from the Police and Medical Officer of Health

Police and the Medical Officer of Health have reported within the statutory timeframe. [Either] The reports offer no opposition to the granting of this licence. [Or] Refer to reports in opposition.

12. Conduct of licence

A menu is enclosed with the application, detailing the range of food available. [Either] This is considered appropriate and meets the range and style specified in the Regulations. [Or] refer to opposition/issues. The applicant has been reminded that food must be available at all times the premises are open for the sale and supply of alcohol.

A Host Responsibility Policy has been provided.

The application states that water will be freely available on the premises and that low-alcohol beer will be available and promoted along with a range of non-alcoholic drinks.

The applicant is reminded alcohol must be advertised, displayed and promoted responsibly.

The applicant's and duty manager's attention is drawn to s 259 of the Act, which makes it an offence not to comply with certain requirements and restrictions imposed by or under this Act, specifically ss 46-63 and 231(1).

I visited the premises on [date] at approximately [time].

[Either] As far as I am aware there have been no compliance issues for these premises while trading under a temporary authority. [Or] identify concerns or matters in opposition.

13. Public notification

This was carried out on [time and date]. Copies of the public notices are on file.

14. Public objections

As the applicant seeks the same terms and conditions as the licence currently in force on the premises, s 102(4) applies.

No public objections have been received.

15. Inspector's additional comment

I have no concerns about this application.

OR

I have the following concerns about this application:

OR

In summary my concerns with this application are (but are not limited to, given any evidence to be heard):

OR

I wish to draw the following to the DLC's attention:

16. Waivers sought

Waivers are sought under s 208 in relation to certain prescribed timelines relating to this new application.

The first public notice was published outside the period prescribed in the Act, s 101, on the dates as stated above.

Waivers are sought under s 208 due to a publication error in the wording of the public notices.

17. Section 117 – Other discretionary conditions/undertakings agreed to

The following conditions pursuant to s 117 of the Act are agreed to as per signed Appendix [X]: *[list conditions agreed to]*.

18. Recommendation

I recommend that the application made by NAME for an on-licence for the premises trading as [name], as detailed above, be granted with the following conditions for a duration of 12 months:

Subject to the licence not being issued before confirmation that a Certificate of Compliance has been issued and that all matters under the Building Act are being complied with.

OR

I oppose this application and recommend it be determined by the committee at a public hearing.

Should the committee be minded to grant this licence, I recommend the following conditions:

OR

Should the committee be minded to grant this licence, I recommend the following conditions; however, my recommendation may change after evidence has been heard at any hearing:

Section 110(1) – Discretionary conditions

- The licensee must take the following action to ensure that the provisions of this Act relating to the sale and supply of alcohol to prohibited persons are observed:
 - Appropriate signs must be displayed adjacent to every point of sale, detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- The licensee must take the following action to ensure that the provisions of this Act relating to the management of the premises concerned are observed:
 - Alcohol must only be sold, supplied and consumed within the area marked on the plan submitted with the application.
- Add any conditions prescribing the people or kinds of person to whom alcohol may be sold or supplied.
- Add any one-way door condition:
 - This licence is subject to a one-way door condition.
This restriction applies: [days and hours].

Section 110(2) – Compulsory conditions

- No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1pm on Anzac Day to any person who is not:
 - residing or lodging on the premises; or
 - present on the premises to dine.
- Alcohol may only be sold or supplied on the following days and during the following hours when the premises are being operated as:
 - A café/restaurant/tavern/hotel: National default hours or requested hours
 - A hotel:
 - To any person living on the premises – national default hours or requested hours
 - Mini-bars – any time on any day
 - To any person present – national default hours or requested hours
- Water must be freely available to customers on the premises while the premises are open for business.

Section 117 – Other discretionary conditions

- The following action must be taken to promote the responsible consumption of alcohol:
 - The licensee must implement and maintain the steps proposed in their Host Responsibility Policy aimed at promoting the reasonable consumption of alcohol.
- Any other discretionary conditions that the applicant has agreed to eg, water from reticulated stations.

Section 119 – Restricted or supervised areas (other)

- The whole (or each of the following parts) of the premises is designated as a restricted area:
[state]
- The whole (or each of the following parts) of the premises is designated as a supervised area:
[state]
- When the premises are being operated as a nightclub or entertainment venue, the whole of the premises is designated as a supervised area.

Section 119 – Restricted or supervised areas (hotel or tavern)

- The whole (or each of the following parts) of the premises is designated as a restricted area:
[state]
- The whole (or each of the following parts) of the premises is designated as a supervised area:
[state]
- When the premises are being operated as a nightclub or entertainment venue, the whole of the premises is designated as a supervised area.

Other restrictions and requirements to be noted on the licence

I recommend that the following restrictions and requirements be noted on the licence:

- One-way door restrictions in local alcohol policies to be complied with (s 50)
- Non-alcoholic drinks to be available (s 51)
- Low-alcohol drinks to be available (s 52)

- Food to be available (s 53)
- Help with and information about transport to be available (s 54)
- Display of signs (s 56)
- Display of licences (s 57)
- Manager to be on duty at all times and responsible for compliance (S 214)

NOTES

- These premises are subject to resource consent conditions under the Resource Management Act 1991. An undertaking applies to this licence.

- *[If appropriate – the inspector considers that the application cannot be heard due to missing information (list)].*

[Name]
Alcohol Licensing Inspector

DATE

Draft

Step 2 – The chair considers the application

Example of a minute on reporting timelines

This is a fictional minute. It should not be relied on for legal principles.

IN THE MATTER of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER of section 103 reports

DIRECTIONS MINUTE OF THE [NAME] DISTRICT LICENSING COMMITTEE

BACKGROUND

This Directions Minute sets out the legal requirements and expectations of the district licensing committee (DLC) relating to agency reporting timelines, the minimum requirements of an agency's report in opposition and the pre-hearing disclosure of documents.

Section 103 of the Act provides:

103 Police, Medical Officer of Health, and inspector must inquire into applications

(1) On receiving an application for a licence, the secretary of the licensing committee concerned must send a copy of it, and of each document filed with it, to—

(a) the constable in charge of the police station nearest to—

(i) the premises for which the licence is sought; or

(ii) the secretary's office, where the licence is sought for a conveyance; and

(b) an inspector; and

(c) the Medical Officer of Health—

(i) in whose district the premises are situated; or

(ii) in whose district the applicant's principal place of business in New Zealand is situated, where the licence is sought for a conveyance.

(2) The inspector must inquire into, and file with the licensing committee a report on, the application.

(3) The Police and the Medical Officer of Health—

(a) must each inquire into the application; and

(b) if either has any matters in opposition to it, must file with the licensing committee a report on it within 15 working days after receiving the copy of it.

(4) The licensing committee may assume that, if no report is received from the Police or Medical Officer of Health within 15 working days after the Police or Medical Officer of Health received the copy of the application, the Police or Medical Officer of Health does not oppose the application.

(5) The secretary must send to the applicant a copy of any report filed with the licensing committee under this section.

REQUIREMENT TO INQUIRE FOR ALL AGENCIES

Sections 103(2) and (3) require the three agencies to inquire into all applications. The inspector must file a report on all applications, whether or not there are matters in opposition. The Police and Medical Officer of Health must file a report within 15 working days after receiving the application if they have matters in opposition.

Although not required by the Act, a prompt report stating there are no matters in opposition is appreciated by the DLC to expedite the processing of unopposed applications.

CONTENTS OF THE REPORT

In [Sargent v Kapiti Supermarket Limited \[2015\] NZARLA PH 194](#), an appeal against a DLC decision, the Authority made it clear that some detail is required in relation to the matters in opposition (emphasis added):

*In terms of s.103(3)(b) of the Act the Police must decide within 15 working days after receiving a copy of the application whether or not they have any matters in opposition to it. Whether or not the Police have matters in opposition must be determined within the timeframe stated in the Act and the Police are bound by the indication that they give. There is nothing in the Act to prevent the Police altering their stance within the 15-day period. Likewise, it is permissible for the Police to withdraw their opposition at any time. **If the Police do have matters in opposition to an application, they must state those matters within the 15 working day period. Merely to state that they oppose an application without setting out the matters in opposition is not adequate as this fails to tell an applicant the nature of the case it must answer at the subsequent hearing;***

[b] If the Police fail to state that they have matters in opposition to an application within 15 working days after the copy of the application is sent to them, the DLC is entitled to assume that the Police do not oppose the application. The Police are deemed not to oppose.

*After the expiration of the 15-day period and at the hearing before the DLC, the Police were not entitled to alter their original stance. Further, the DLC should have assumed that the Police had no matters in opposition to the application – s.103(4) of the Act. In this case, the change of stance occurred approximately three weeks after the original indication of no opposition and arguably the respondent did have time to appreciate the nature of the Police opposition and answer it. **However, it is important that District Licensing Committees and the Authority require compliance with the statutory obligations of the reporting agencies. Too often recently have reporting agencies failed in this regard and as a result breaches of natural justice have occurred.** This must not be permitted to continue. Finally, the waiver provisions contained in s.208 of the Act will seldom apply as the neglect or omission will usually be wilful.*

From this appeal decision we draw the following conclusions:

- The agencies **must** provide a report within 15 working days of receiving a copy of the application if they have matters in opposition.
- The report **must** state the matters that they have in opposition. They do not have to be comprehensive at this stage but must be sufficient for the applicant to fully and fairly understand the issues to which they must answer at a subsequent hearing (and/or for negotiation with the inspector).
- Failure to comply with these requirements will most likely be a breach of natural justice.
- At any subsequent hearing, the reporting agencies will be confined to the matters raised in their reports filed in terms of s 103(3)(b) of the Act.

There is further authority for this stance.

In [Paulin v Scott \[2013\] NZARLA PH 489](#) “the Authority appreciates that in some situations the Police may not be able to express their grounds for opposition with adequate particularity within 15 working days ... it would be permissible for the Police to state their grounds in opposition in more detail within a very short period of time. The Authority envisages that this would be within 15 working days after the initial report”.

INSPECTOR REPORTING TIMES

There is no statutory time requirement on the inspector to report. However, the inspector should report in a timely manner. If the inspector considers further information is required before being able to report, it should communicate this to the Committee as soon as possible.

CONDITIONAL OPPOSITIONS

Typical (but not exhaustive) responses of the reporting agencies might include:

1. There are no matters in opposition.
2. The Police/Medical Officer of Health have matters in opposition to the application namely [*specify*] and wish to be heard on those matters.
3. The Police/Medical Officer of Health have matters in opposition, for example the proposed hours of operation. However, the opposition would be satisfied if the hours of operation were to be reduced from 7am to 11pm to 7am to 9pm for the following reasons [*specify*].
4. The reporting agencies might invite the committee to determine whether, for example, the proposed single alcohol area is compliant with ss 112-114, even though there are no formal matters raised in opposition.
5. The application cannot be heard as the following information is missing: [*specify*].

As part of their report the inspector can advise the DLC that the application does/does not meet the criteria for issue and (having discussed it with the applicant) the applicant does/does not accept the conditional terms sought by the Police/Medical Officer of Health.

We do not recommend the practice of a 'two or three agencies' visit to the applicant to 'discuss' the proposed conditions. This can generate complaints, or the impression of harassment and/or intimidation, and is unprofessional and counter-productive to the licensing process.

Any 'negotiation' should be undertaken carefully and neutrally by the inspector, who ultimately is the only agency who must report to the DLC.

PRE-HEARING DISCLOSURE OF DOCUMENTS

A full report stating any matters in opposition and the evidential basis that the agency intends to rely on to support their position must be lodged with the DLC as soon as practicable after defining the matters in opposition and **no later** than the timelines prescribed below.

All Briefs of Evidence and any other documentary material that the agencies seek to introduce into evidence **must** be disclosed to the parties – the applicant, the other reporting agencies, the secretary of the DLC and other parties listed in s 204 – at least **10 working days before any scheduled hearing**.

If exceptional circumstances exist, the DLC may allow an extension of time to file but it will be **no later than five working days** before any hearing.

Final submissions may be disclosed at this time, if the writers so wish, but they can also be presented when closing their cases to the DLC on the day of the hearing.

If more than a few paragraphs, submissions should be in writing and handed up to all parties on the day of the hearing.

EVIDENCE IN PROCEEDINGS BEFORE THE COMMITTEE

Pursuant to s 207 of the Act, the committee may receive as evidence any statement, document, information or matter that in its opinion may assist it to deal effectually with any matter before it.

The principles of natural justice apply. The parties must turn their mind to the relevance and reliability of any evidence intended to be adduced.

DATED at [place] this 15th day of May 2016

[Name]
Chair

Example of a minute setting down a hearing due to agency opposition

This is a fictional minute. It should not be relied on for legal principles.

Reference no:

IN THE MATTER of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER of an application by Forward Limited for a new on-licence pursuant to s 100 of the Act in respect of premises situated at Shop 6, 5 Taumata Town Centre, Taumata, to be known as 'Rise'

DIRECTIONS MINUTE OF THE TAUMATA DISTRICT LICENSING COMMITTEE

DIRECTION OF THE COMMITTEE

Introduction

1. The applicant applies for an on-licence for a proposed new Class 1 restaurant bar in the Town Centre in Taumata.
2. The Police and Medical Officer of Health have lodged adverse reports as they are concerned about another alcohol outlet in Taumata.
3. The Medical Officer of Health opposes the application, saying there will be amenity and good order issues if another outlet is permitted in Taumata, which is classified as a deprived area in wellbeing deprivation indices.
4. The committee needs to hear evidence relating to these concerns from the agencies directly.
5. I direct, pursuant to s 202 of the Act, that the matter be set down for hearing to enable the committee to hear from the parties.
6. The application is to be set down for hearing at the earliest opportunity.

DATED at TAUMATA this 20th day of October 2017

[Name]

Chair

Taumata District Licensing Committee

Example of a minute setting down a hearing due to new case law

This is a fictional minute. It should not be relied on for legal principles.

Reference no:

IN THE MATTER of the Sale and Supply of Alcohol
Act 2012 (the Act)

AND

IN THE MATTER of an application by Green Limited
pursuant to s127 of the Act for the
renewal of the OFF Licence in
respect of premises situated at 2
Taiepa Road, Bartontown known
as "Bartontown Super Value"

MINUTE OF THE BARTONTOWN DISTRICT LICENSING COMMITTEE

1. On 17 August 2015 the application to renew the OFF Licence for Bartontown Supervalue was heard by the Bartontown District Licensing Committee.
2. The application was unremarkable and the only point in issue was the physical definition and description of the Single Alcohol Area (SAA).
3. An opportunity was afforded to the parties to see if agreement could be reached on the SAA.
4. For various reasons no agreement was reached and the adjourned hearing was set down for resumption on 11 September 2015.
5. On 6 September 2015 a High Court decision was released directly on point: *Re ABC Supermarkets Ltd* [2015] NZHC XXX.
6. By way of memorandum dated 7 September 2015 counsel for the applicant (Mr Brown) seeks a further adjournment of the hearing, citing the anticipated application for leave to appeal the High Court decision to the Court of Appeal; and that his client would be disadvantaged if this matter proceeded in the meantime. The memorandum recorded the consent of the other parties to the hearing being adjourned and that further delay in the matter was not to the prejudice of any party.
7. The hearing on 11 September 2015 is accordingly vacated by consent. The parties are to file a memorandum by 1 December 2015 updating the Committee as to progress of the appeal.
8. The Committee gives leave to any of the parties to bring the matter back before it for any further directions.

DATED at BARTONTOWN this 9th day of September 2015

[Name]
Chair
Bartontown District Licensing Committee

Draft

Example of a minute seeking further information

This is a fictional minute. It should not be relied on for legal principles.

Reference number:

IN THE MATTER of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER of an application by Kim Major
pursuant to s 224 of the Act for the
renewal of a manager's certificate

DIRECTIONS MINUTE OF THE WINDERMERE DISTRICT LICENSING COMMITTEE

BACKGROUND

1. On 13 March 2017 the Windermere DLC received an application from Kim Major for the renewal of a manager's certificate.
2. The applicant advised that they did not currently work in licensed premises but in the future may be "buying a liquor store or dairy that sells liquor".
3. Council records indicate that both businesses that the applicant was linked to years ago have not been licensed since 2015.

DIRECTION OF THE COMMITTEE

4. Section 227(c) of the Sale and Supply of Alcohol Act 2012 (the Act) requires that when considering a renewal of a manager's certificate the DLC **must** have regard to "*the manner in which the manager has managed the sale and supply of alcohol pursuant to the licence with the aim of contributing to the reduction of alcohol-related harm*".
5. There is no evidence before the committee of any recent experiences or link to any licensed premises during the tenure of the current certificate that we can consider.
6. There is also no fresh LCQ certificate provided, though there are documents to suggest the applicant has passed the 'new' LCQ.
7. The applicant and inspector are directed to provide the committee, care of the secretary, with written feedback on any experience, during the renewal period, the applicant may have that was not brought to the attention of the DLC. This is to be provided by 9 June 2017.
8. If no such information is received by 9 June 2017, the committee will proceed on the information it has, that is, that there has been no experience during the renewal period.
9. We wish to hear from both parties before we consider whether the matter can be resolved 'on the papers' or referred to a full quorum of the DLC for determination at a public hearing.

10. I direct that a copy of this minute be provided to the applicant and the inspector, from whom we wish to hear further as set out above.

DATED at WINDERMERE this 29th day of May 2017

[Name]
Chair/Commissioner
Windermere District Licensing Committee

Draft

Example of a minute setting down a rehearing

This is a fictional minute. It should not be relied on for legal principles.

Decision number:

IN THE MATTER of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER of an application by Seek Bar
Limited pursuant to s 100 of the
Act for an on-licence in respect of
premises situated at 111
Maungaiti Road, Kingsville, to be
known as 'Seek'

MINUTE OF THE KINGSVILLE DISTRICT LICENSING COMMITTEE

THE APPLICATION

On 15 June 2017 the DLC considered an application by Seek Bar Limited for a second temporary authority for premises situated at 111 Maungaiti Road, Kingsville, to be known as 'Seek'.

An on-licence, [Ref xxxx], is attached to the premises and expires on 17 December 2017.

The base licence was for a restaurant trading as Mr Mikado and there is no designation in place. The committee was advised by the inspector that significant refurbishment has been carried out by the applicant and the business only recently commenced trading.

The committee granted a second temporary authority to commence from 27 July when the current temporary authority expires. We made it clear to the applicant that we expected significant progress to be made with lodging the application for the substantive licence. The committee also made it clear that the business must operate as a low-risk restaurant for the duration of the current and extended temporary authority.

Subsequently the committee has been advised that it appears the business is attempting to run as a tavern and there have been a number of noise complaints lodged with the council.

The committee is also advised that it appears that the building consent has not been signed off for public use.

Pursuant to s 201(4) of the Act, the committee gives notice of our intention to rehear the application for the second temporary authority.

The committee understands that 20 July 2017 is available for a public hearing. At that hearing, the committee will hear from the parties and from the council's building consent officer.

The secretary is to advise all parties and the consent officer accordingly, and no later than [xxx] working days prior to the hearing.

DATED at KINGSVILLE this 3rd day of July 2017.

[Name]
Chair/Commissioner
Kingsville District Licensing Committee

Draft

Example of a minute setting down a hearing due to outstanding issues

This is a fictional minute. It should not be relied on for legal principles.

Reference number:

IN THE MATTER of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER of an application by Pounamu
Entertainment Limited pursuant to
s 138 of the Act for a special
licence in respect of premises
situated off Ropati Street,
Tataranui, known as the 'Tataranui
Amphitheatre'

MINUTE OF THE TOTARANUI DISTRICT LICENSING COMMITTEE

INTRODUCTION

1. Pounamu Entertainment Limited applies for a special licence to sell and supply alcohol between the hours of 10.30am and 5.00pm at the 2017 Summer Concert on Saturday 28 January 2017, Tataranui Amphitheatre, Riverside Park, 11 Ropati Street, Tataranui.

BACKGROUND

2. The agencies have met with the applicant to discuss the alcohol management plans and contingencies for this event.
3. Most parts of the application are not contested, nor is the overall suitability of the applicant.
4. What remains in dispute is the proposed service sizes during the early part of the concert, hours of operation for the bars, and glass drink vessels.
5. The committee has considered the file, including the applicant's proposal and the agencies' responses.
6. Pursuant to s 202 of the Sale and Supply of Alcohol Act 2012 (the Act) the committee, where there has been no (public) objection, may either grant the application 'on the papers', or convene a public hearing to consider the application.
7. The committee intends to call a hearing to receive evidence from the parties on the outstanding issues.
8. We instruct all parties to direct their evidence in chief primarily to the matters that are in dispute and mitigation procedures around these issues.
9. The committee directs that the matter be set down for a hearing as soon as possible. The committee understands that 28 November 2016 is a suitable date for all parties.

10. The secretary is to liaise with the parties to set down a hearing date. The secretary must advise the parties of the hearing date no less than [xxx] working days prior to the hearing.

DATED at TOTARANUI this 17th day of November 2016

[Name]
Chair/Commissioner
Taranui District Licensing Committee

Draft

Example of a minute setting down a hearing

This is a fictional minute. It should not be relied on for legal principles.

Reference number:

IN THE MATTER of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER of an application by Summer
Entertainment Limited pursuant to
s 138 of the Act for a special
licence in respect of premises
situated at Roberts Drive,
Townsvilletown, known as the
'Town Park'

MINUTE OF THE TOWNSVILLETOWN DISTRICT LICENSING COMMITTEE

INTRODUCTION

1. Summer Entertainment Limited applies for a Special Licence in respect of premises situated at the Roberts Drive, Townsvilletown known as the "Town Park".
2. It seeks to have a concert at this venue featuring bands on Saturday the 23rd of February 2019 from 2pm to 10.30pm.
3. This would be the first time for this event to be held in Townsvilletown.

BACKGROUND

4. The agencies have meet with the applicant to discuss the alcohol management plans and contingencies for this event.
5. The Police and Medical Officer of Health have concerns over the types of alcohol on offer and the risks to the young audience expected to attend.
6. Pursuant to Section 202 of the Sale and Supply of Alcohol Act 2012 the committee, may where there has been no (public) objection, either grant the application 'on the papers', or convene a public hearing to consider the application and the adverse reports from the agencies.
7. The committee intends to call a hearing to receive evidence from the parties on the outstanding issues.
8. We instruct all parties to direct their evidence in chief primarily to the matters that are in dispute and to appropriate mitigation procedures.
9. We direct that the matter be set down for a hearing as soon as possible. We understand that 8 December 2018 is a suitable date for all parties.

10. The secretary is to liaise with the parties to set down a hearing date. The secretary must advise the parties of the hearing date no less than [xxx] working days prior to the hearing.

DATED at TOWNSVILLETOWN this 30th day of November 2018

[Name]
Chair/Commissioner
Townsvilletown District Licensing Committee

Draft

Guide to writing a decision

This guide covers applications where a hearing has been held but can also be used for a decision 'on the papers' if references to the hearing are removed. It is intended to be a general guide to help structure a decision, but each committee must independently write its decisions and is responsible for ensuring all required content is included. It should not be relied on for legal principles.

Decision number:

IN THE MATTER

of the Sale and Supply of
Alcohol Act 2012

AND

IN THE MATTER

of an application by [*applicant*]
pursuant to s [xx] of the Act for
an off-/on-/club licence in
respect to premises situated at
[*address*]

BEFORE THE [NAME] DISTRICT LICENSING COMMITTEE

Chair:

Members:

HEARING at [*place*] on [*date*]

APPEARANCES

Person 1 – for the applicant

Person 2 – licensing inspector – in opposition/to assist

Person 3 – from the Police – in opposition/to assist

Person 4 – for the Medical Officer of Health – in opposition/to assist

Any s 4 parties

Objectors

Objector 1

Objector 2

Objector 3

DECISION OF THE DISTRICT LICENSING COMMITTEE

Introduction

This section will address details of the licence including:

- type of licence applied for
- site description
- any outstanding compliance issues
- those in opposition and a broad outline of that position
- details of objectors
- reasons for holding a hearing, such as the level of opposition.

Application

This section will provide information on the applicant such as:

- shareholders/directors
- address
- trading name
- property leased or owned; tenure
- proposed designation
- principal purpose of the business
- proposed hours
- any associated companies or relevant previous licences.

Applicant's evidence

This section will summarise:

- evidence in support of the application – confirmation of details in application
- any additional issues and responses raised at the hearing
- any information provided by the applicant on any action taken in respect of any breaches
- procedures in place generally to support well-run premises.

Reporting agencies

Licensing inspector

This section will summarise:

- details of matters in opposition or assistance given to/interactions with the applicant
- evidence given on oath or documentary evidence

- any compliance issues and their outcome
- any information about other premises in the area
- sensitive sites in the area
- any suggestions as to conditions, hours and the evidence/reasoning in support.

Police

This section will summarise:

- details of matters in opposition
- details of Police engagement with the applicant
- evidence given on oath or documentary evidence
- any suggestions as to conditions, hours and the evidence/reasoning in support.

Medical Officer of Health

This section will summarise:

- details of matters in opposition
- details of Medical Officer engagement with the applicant
- evidence given on oath or documentary evidence
- any health-related issues that will be impacted by this application
- any suggestions as to conditions, hours and the evidence/reasoning in support.

Applicant's undertakings

Examples might include:

- who will hold general manager's certificates and how many there will be
- plans in place to restrict sale to minors and intoxicated persons
- no single sales
- maintaining appropriate layout and design
- video surveillance
- taking responsibility for the exterior
- no advertising on the windows
- training for staff.

Objections

This section might include:

- the number of objections received and from whom

- broad details of the objections (they are often similar)
- principal or thematic concern(s)
- details of specific objections
- any organisation such as schools, churches or other sensitive sites recorded.

Section 204 parties

This section might include:

- the s 204 party or parties – who it is and why they have an interest in the proceedings apart from any interest in common with the public
- broad details of the s 204 party's position
- principal or thematic concern(s).

Licensing committee decision and reasons

This will include:

- the procedure adopted in respect to specific type of application
- any case law that has been part of the decision and why/how it applies
- suitability of the applicant
- other information considered in respect to criteria in ss 105 or 146
- assessment of the evidence in chief. This will generally include why certain evidence is given more (or less) weight than other evidence
- questions of clarity raised by the committee
- any particular issues raised about the premises and the surrounding area including problems such as car parks and young people gathering
- discussion on the reporting agencies' reports.

Conclusion

This will generally include the decision, the primary reason for it, when it is to take effect, and any conditions. This section generally will not include any new matters.

DATED at *[place, date]*

[Name]
 Chair/Commissioner
[Name of] District Licensing Committee