

# Contract for Services

## Contract Details

**Contract for Membership of the Wellington City Council District Licensing Committee – List Member** Add Contract reference if applicable

### The Parties

**The Buyer:**

Wellington City Council
NZBN: 9429000017527
113 The Terrace, Wellington, 6011

and

**The Supplier:**

NZBN: Insert New Zealand Business Number of the Supplier

### The Contract

**Agreement**

The Buyer appoints the Supplier to deliver the Services described in this Contract and the Supplier accepts that appointment. This Contract sets out the Parties' rights and obligations.

**Parts of this Contract**

The documents forming this Contract are:

1. **Contract Details:** This section
2. **Schedule 1:** Description of Services
3. **Schedule 2:** Standard Terms and Conditions GMC Form 2 SERVICES | Schedule 2 (3<sup>rd</sup> Edition) available at: [www.procurement.govt.nz](http://www.procurement.govt.nz)
4. Any other attachments described at Schedule 1.

**How to read this Contract**

- Together the above documents form the whole Contract
- Any Supplier terms and conditions do not apply
- Clause numbers refer to clauses in Schedule 2
- Words starting with capital letters have a special meaning. The special meaning is stated in the paragraph headed "Definitions" at the end of Schedule 2

## Acceptance

In signing this Contract each Party acknowledges that it has read and agrees to be bound by it.

**Signed for and on behalf of the Buyer:**

**Signed for and on behalf of the Supplier:**

\_\_\_\_\_  
(signature)

**Name:**

**Position:**

**Date:**

\_\_\_\_\_  
(signature)

**Name:**

**Position:**

**Date**

RELEASED UNDER THE LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987

# Schedule 1

## Description of Services

Contract Management and Personnel		
<b>Start Date</b>		<i>Reference Schedule 2 clause 1</i>
<b>End Date</b>		<i>Reference Schedule 2 clause 1</i>
<b>Renewal</b>	Not applicable.	<i>Reference Schedule 2 clause 1</i>

### Contract Managers

*Reference Schedule 2 clause 4*

	Buyer's Contract Manager	Supplier's Contract Manager
<b>Name:</b>		
<b>Title / position:</b>		
<b>Address:</b>		
<b>Phone:</b>		
<b>Email:</b>		

### Addresses for Notices

*Reference Schedule 2 clause 14*

	Buyer's address	Supplier's address
<b>For the attention of:</b>		
<b>c.c. Contract Manager</b>		
<b>Delivery address:</b>		
<b>Postal address:</b>		
<b>Email:</b>		

## Description of Services

### Context

District Licensing Committees (DLCs) are required to be appointed by Council, under the Sale and Supply of Alcohol Act 2012 (Act).

The object of the Act is that:

- The sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and
- The harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

DLC functions are specified by the Act (ref. Act section 187) and are:

- a) To consider and determine applications for licenses and manager's certificates; and
- b) To consider and determine applications for renewal of licences and manager's certificates; and
- c) To consider and determine applications for temporary authority to carry on the sale and supply of alcohol in accordance with section 136; and
- d) To consider and determine applications for the variation, suspension, or cancellation of special licences; and
- e) To consider and determine applications for the variation of licences (other than special licences) unless the application is brought under section 280 (Note: section 280 relates to applications by constables or inspectors to the licensing authority for the variation, suspension or cancellation of a licence, other than a special licence); and
- f) With the leave of the Chairperson for the licensing authority, to refer applications to the licensing authority; and
- g) To conduct inquiries and to make reports as may be required of it by the licensing authority under section 175; and
- h) Any other functions conferred on licensing committees by or under this Act or any other enactment.

The Act specifies the criteria a DLC must have regard to when deciding whether to issue a licence (ref. Act sections 105, 131 and 142). The Act also specifies the criteria a DLC must have regard to when deciding whether to issue a manager's certificate (ref. Act section 222).

A DLC is a committee of Council and is subject to the provisions of the Local Government Official Information and Meetings Act 1987, other than Part 7 which refers to considerations concerning Local Authority meetings including the admission and exclusion of the public and the public availability of agendas, report and minutes.

Within the scope of its jurisdiction DLCs must be treated as being a Commission of Inquiry under the Commissions of Inquiry Act 1908 (ref. Act section 210).

### Description of Services

A DLC consists of 3 members appointed by Council; a Chairperson and 2 list members drawn from a Council approved member list. The quorum for considering an unopposed application for a new, or renewal of an existing licence or manager's certificate is 1 member who must be the Chairperson. For all other DLC meetings the quorum is 3 members.

This contract is for the provision of DLC list member services which will mainly entail participation in full meetings of a DLC (i.e. 3 members) to consider opposed licence and manager's certificate applications. In addition to hearing time the services provided will include pre-hearing preparation time and post-hearing administrative time. Preparation time will include: reading the application file, relevant previous case law, what the Local Alcohol Policy (LAP) may or may not say about a particular area, the licence conditions that could be imposed and, occasionally, site visits. Administrative time will include post hearing discussion and finalisation of DLC decisions.

## Deliverables and Milestones

### Deliverables

DLCs, and hence its members, are responsible for making and documenting decisions that are consistent with the requirements of the Act, particularly the object of the Act and the criteria to be considered when deciding an application as well as the Council's LAP.

Decisions are to be documented to a high standard. Decisions should accurately and comprehensively capture the reports, evidence and submissions made on applications. Decisions should also reflect relevant case law and guidance from the licensing authority.

Decisions should be issued promptly after due consideration of the application and related reports, evidence, submissions, case law and licensing authority guidance.

- The target is for opposed application decisions to be issued by the Chairperson by 10 working days after the hearing. It is accepted that complex and potentially contentious decisions may take longer. These are expected to be issued by 15 working days after the hearing.
- To meet this target list members are expected to turnaround draft decisions, provided by the Chairperson for comment and consideration, within 3 working days or, for complex and potentially contentious decisions, within 5 working days.

DLC hearings are to be conducted consistent with the procedures required of public hearings of quasi-judicial bodies and any guidance issued by relevant bodies (e.g. the licensing authority or the Ministry of Justice).

DLCs must operate within the Council approved Terms of Reference.

DLC members are expected to uphold the highest standard of professional and ethical conduct at all times.

### Performance standards

With respect to timeliness the targeted performance standard is that 95% of decisions will be issued within the target number of working days. To support achieving this target it is expected that list members will provide feedback to the Chairperson, on draft decisions, within 3 or 5 working days (depending on the complexity and sensitivity of the decision). List members are expected to confirm their approval of final decisions (draft decisions that have considered and incorporated list member feedback) within 2 working days. The only expected exception is final decisions that the list member believes still requires further DLC discussion.

Decisions of DLCs that are appealed will be determined by the licensing authority and, potentially, the High Court and Court of Appeal. Appeal authority decisions will potentially provide comment on DLC decision quality and consistency.

Feedback from hearing participants will potentially provide feedback on the DLC's conduct of hearings.

The DLC Chairperson may also comment on the contribution and performance of DLC list members.

## Specific code of conduct / policies/ health & safety / protective security / legislative requirement

### Health and safety

- The Health and Safety at Work Act 2015 requires Wellington City Council as the PCBU to take all practicable steps to ensure contractors, subcontractors and employees are not harmed while undertaking any work under contract to the Council

### Code of Conduct

- Whilst DLCs are statutory bodies they are also a Committee of Council. DLC members are expected to conduct themselves consistent with the Council's values and expectations of its elected and staff representatives. In upholding the highest standard of professional and ethical conduct at all times DLC members, in discharging their responsibilities, are expected to pay particular attention to conflict of interest and confidentiality considerations  
DLC members must not bring the Council or the DLC into disrepute through their personal activities.

- **Transfer of records**

All notes or other records made by a DLC member related to an application form part of the record of the DLC's consideration of the application and are required to be retained and given to the DLC Secretary

## Charges

The following section sets out the Charges. Charges are the total maximum amount payable by the Buyer to the Supplier for delivery of the Services. Charges include Fees, and where agreed, Expenses and Daily Allowances. The Charges for this Contract are set out below.

### Fees

*Reference Schedule 2 clause 3*

DLC list members fees have been determined by under the Cabinet approved Fees Framework and approved by the Minister for Justice.

The approved fee covers not only the hearing time but also pre-hearing preparation and post hearing administrative time and attendance at training and meetings related to DLC work

DLC members are required to maintain an accurate and up to date record of time spent on DLC matters

### Daily Fee Rate

For each day worked a Daily Fee Rate of \$408.00 excluding GST will be paid. One day's work is defined as eight hours or more. The Fees Framework does not permit extra payment for work in excess of 8 hours in a day. If the DLC member works less than a full day (8 hours) the Fee shall be pro-rated based on the time worked i.e.  $\$408 \div 8 \times \text{hours worked}$ .

The time required of each DLC list member will be mainly determined by: the number and type of applications received, how many applications are opposed, the experience and expertise required to consider each opposed application and the skill set of each DLC list member. As these variables are beyond the control of the Council there can be no guarantee or expectation of the time required of a DLC list member.

### Retention Allowance

In addition to the daily fee rate a retention allowance equal to 100% of the daily fee rate is payable.

### Expenses

*Reference Schedule 2 clause 3*

#### Actual and reasonable — general expenses

The Buyer will pay the DLC list member's actual and reasonable travelling and other Expenses incurred in carrying out their office provided that:

- The Buyer has given prior written consent to the DLC list member incurring the Expense;
- The Expense is charged at actual and reasonable cost;
- The claim for Expenses is supported by GST receipts.

### Daily Allowance

*Reference Schedule 2 clause 3*

**No Daily Allowances are payable.**

## Invoices

Reference Schedule 2 Subject to clauses 3 and 11.7

**The Supplier must send the Buyer an invoice for the Charges at the following times:**

At the end of the month, for Services delivered during that month. The invoice must be supported by a complete and accurate record of time spent providing DLC services

### Address for invoices

Reference Schedule 2 clause 3

	<b>Buyer's address</b>
For the attention of:	

## Insurance

Reference Schedule 2 Clause 8.1

**The Buyer does not require any specific insurance under this Contract other than the requirements under clause 8.1 of Schedule 2.**

## Changes to Schedule 2 and attachments

**Schedule 2 of this Contract is amended as follows:**

1. Delete clause 2.3(d) and replace it with the following:
  - (c) *comply with any relevant codes of conduct, policies and other requirements referred to in Schedule 1 or notified by the Buyer to the Supplier from time to time.*
2. Add a new clause 6.4 as follows:
 

**6.4 Local government reorganisation:** *The Parties agree that in the event of a local government reorganisation in the Wellington region, the Buyer may elect to assign its rights or novate its rights and obligations under this Contract to the relevant public entity. If the Buyer exercises its right under this clause to assign or novate this Contract, the Supplier agrees to sign all documents and do all things necessary to give effect to such assignment or novation.*
3. Amend clause 13.1(c) by deleting the text "Official Information Act 1982" and replacing it with "Local Government Official Information and Meetings Act 1987".
4. Add new clauses 17.11 and 17.12 as follows:
 

**17.11 Territorial authority:** *The Supplier acknowledges that the Buyer is the territorial authority for the area in which the Services are to be provided, and that in terms of its regulatory functions as a local authority the Buyer must act as an independent local authority and not as a party to this Contract. Any consent or approval of the Buyer acting as a party to this Contract shall not be construed as a consent or approval of or bind it in its regulatory capacity.*

**17.12 LGOIMA:** *The parties acknowledge that the Buyer is subject to the Local Government Official Information and Meetings Act 1987 and that under that Act the Buyer may be required to release information about the Services and the Supplier. The Supplier agrees to comply with the requirements of the Local Government Official Information and Meetings Act 1987 in*

*relation to all information relating to the Buyer held by the Supplier or its employees. The Supplier will only release information directly to a third party under the Local Government Official Information and Meetings Act 1987 through the Buyer unless compelled by a competent authority, in which case it will immediately advise the Buyer as to the information released.*

5. The section entitled “Definitions” is amended so that a new penultimate bullet point is added to the list of bullet points in the definition of “Confidential Information” as follows:

“● is personal information as defined in the Privacy Act 2020, or”.

## **Attachments**

Reference 'Contract documents' described at Page 1

- Wellington City Council – Ngā Tikanga Whanonga Code of Conduct