

February 2023

Submission on the Sale and Supply of Alcohol (Community Participation) Amendment Bill

To the Justice Committee,

Te Hīringa Mahara, the Mental Health and Wellbeing Commission, welcomes the opportunity to make a submission on the Sale and Supply of Alcohol (Community Participation) Amendment Bill.

Te Hīringa Mahara was established following the *He Ara Oranga : Report of the Government Inquiry into Mental Health and Addiction*. We are an independent Crown entity, with a legislated role to assess, report, and make recommendations on the mental health and wellbeing of people in New Zealand, and the factors and approaches that affect them. We also have a legislated role to advocate for the collective interests of people who experience mental distress or addiction (or both), and the persons (including family and whānau) who support them. These roles and this advocacy underpin our submission on this Bill.

This submission stands alone, and so Te Hīringa Mahara does not seek to appear before the committee to speak to it. However, if the Committee wants further clarification on any of the points that follow, we would be happy to advise in writing or in person.

Our position

Te Hīringa Mahara supports the intent of the Sale and Supply of Alcohol (Community Participation) Amendment Bill.

However, as there are barriers to engaging in the licensing process and very few licensing applications reach hearings, for a variety of reasons as discussed below, more should be done to proactively engage the public and provide the opportunity to improve the wellbeing of their communities.

We support the Bill, because it can be expected to reduce harm and improve wellbeing.

In 2018, economists at Business and Economic Research (BERL) estimated harmful alcohol use cost New Zealand \$7.85 billion annually. The 2010 Law Commission report *Alcohol in Our Lives: Curbing the Harm* and the World Health Organisation's *SAFER Framework for Preventing and Reducing Alcohol Related Harms* both agree stricter regulation of alcohol is necessary to prevent and reduce harm. This is identified as particularly important for Māori and groups facing adversity or exclusion. The most cost-effective measures to prevent and reduce alcohol harm are reducing the availability, affordability and promotion of alcohol, as was done with tobacco.

The changes proposed by the Bill are aimed at reducing alcohol-related harm and improving wellbeing. This is in line with our commitment to addressing the wider determinants of mental health and wellbeing. The changes are also in line with Recommendation 26 of *He Ara Oranga, the Government Inquiry into Mental Health and Addiction*, to take a stricter regulatory approach to the sale and supply of alcohol.

Improving the opportunity for members of communities to have their concerns recognised through alcohol licencing processes can be expected to reduce the availability of alcohol for communities who are most likely to be impacted by alcohol harm – particularly localities

made more vulnerable due to deprivation and the proliferation of alcohol outlets. There will also be less-tangible wellbeing benefits, from supporting communities to determine their own pathways, and to shape their environments through these processes and local alcohol policies.

However, more work is needed

In the Government's response to *He Ara Oranga, the Government Inquiry into Mental Health and Addiction*, it was noted that Government agrees with the intent of reducing harm from alcohol and other drugs. At the time, further consideration was needed as how best to give effect to this, building on work underway. This Bill provides a good step to build on that work. However, as stated in the Treasury's *Supplementary Analysis Report*¹ the Bill's "targeted changes" focus only on who can object to licence applications; how licensing hearings are run; and the ability to adopt and apply local alcohol policies (LAPs).

We recognise that further work to reduce the affordability, availability, and promotion of alcohol is underway or planned, including undertaking policy work looking at broader and more systematic reform of the Act. This work would complement and expand the proposals here. We will watch these developments with interest.

The Committee should act to strengthen the Bill before it is passed

While we support the Bill overall, it appears to present a missed opportunity to better uphold Te Tiriti o Waitangi and proactively engage communities, and the Committee should seek to strengthen this in its report to the House.

As outlined in the Supplementary Analysis Report, only a very small fraction of applications for licences are refused. Over the last five years:

- Auckland has granted 5704 new licences and declined 10,
- Wellington has granted 431 new licences and declined 5,
- Christchurch has granted 663 new licences and declined 7,
- Invercargill has granted 54 new licences and declined 0, and
- Porirua has granted 78 new licences and declined 1

As the Committee may be aware, the report prepared for Te Whatu Ora² showed that negative impacts of off-licence outlets were not taken into account in alcohol licensing decisions for the following reasons (p.52):

- a lack of mandate in the Act or processes for appropriate engagement with Māori;
- low participation due to inadequate notification and support for residents who wish to object;
- complex evidence standards that lay people struggle to understand and meet;
- the higher standard applied to community evidence when reporting agency data is lacking; and,
- gaps in the information held or provided by reporting agencies.

¹ <https://www.treasury.govt.nz/sites/default/files/2022-12/ria-justice-ssaab-nov22.pdf>

² Randerson, S., Gordon, L., Casswell, S., Lin, J., Borell, B., Rychert, M., & Huckle, T. (2022) "I feel it's unsafe to walk": Impacts of alcohol supply on public space in eight neighbourhoods, and residents' input to alcohol licensing decisions. Wellington: Te Whatu Ora

This Bill seeks to address, to varying degrees, the latter three points, but would be strengthened if it also addressed the first two.

That same Te Whatu Ora report found that “there was little evidence of proactively facilitating engagement with Māori in licensing decisions, as appropriate to Crown obligations under Te Tiriti o Waitangi, the Treaty of Waitangi and the Local Government Act 2002. The processes used for notifying licence applications [meant] most residents interviewed (83%) were unaware of the application yet a majority would have objected had they known.”

While having Māori representation in district licensing committees may be an even better reflection of Treaty partnership, this amendment Bill provides a good opportunity to address the points above, by amending section 101 of the Principal Act. Applicants for a licence currently have 20 days to give ‘public notice’ of the application, under that section of the Act. Interested parties then have 15 days to make any objections.

Given the need to gather evidence and support, and the limited engagement with traditional ‘public notices’ (ie entries in the back of local newspapers), and given the findings above, section 101 of the Principal Act should be amended to require proactive notification or engagement with relevant groups, including mana whenua. This may be in the form of identifying groups who must be notified directly, letterbox leaflets or similar in nearby communities, and/or online notifications on Ministry of Justice and Council websites or social media pages.

In summary

Te Hiringa Mahara:

- Supports the changes proposed by the Bill, as they can be expected to reduce alcohol related harm and improving wellbeing.
- Supports the Bill’s effort to improve the opportunity for members of communities to have their concerns recognised, as it can be expected to contribute to more equitable wellbeing outcomes.
- Suggests the Bill be strengthened, making engagement with communities more proactive, in order to better address inequities and uphold the Crown’s obligations under te Tiriti o Waitangi.