



Sale & Supply of Alcohol (Community participation) Amendment Bill

Submission Information for BGNZ Members

The below information is intended as a guide to support you in writing a submission for the Sale & Supply of Alcohol (Community Participation) Amendment Bill.

These points are suggested as a guide for your comments, re-write in your own words and where possible give personalised impact statements. You can choose to write as a document and upload to the submission portal, or you can complete via their portal with your comments and recommendations. Below are some aspects that you may wish to include in your submission.

This [GUIDE](#) is helpful for those who have not made a submission before.

You can make your submission [HERE](#)

Submissions close at 11:59pm on Sunday 12 February.

1. **(Your name/Name of organisation)** oppose the Sale and Supply of Alcohol (Community Participation) Amendment Bill (**the Bill**), and have particular concern with the following aspects of the Bill:
 - The removal of parties' ability to appeal LAPs;
 - Allowing District Licensing Committees (**DLCs**) to decline a licence renewal if the renewed licence would be inconsistent with an LAP;
 - Broadening the category of people who can object to a licensing application.; and
 - Abolishing the ability to question and cross-examine witnesses by anyone other than the chairperson.
2. Further expansion on reasons are outlined below:

LAP appeals

(Your name/name of organisation) opposes the Bill's removal of the ability to appeal LAPs.

- While there are some instances of LAP's being stuck in litigation, we believe that the right to appeal LAP's provides an important check and balance that assists in securing a more consistent approach across the country.
- The existing Act already places significant restrictions on the right of people to appeal LAPs.

- Regardless of these restrictions, groups have found other avenues to pursue appeals through the courts. Even if the appeal rights to LAPs are removed, it is likely people will continue to challenge LAPs through judicial review proceedings. Therefore the Bill will not change the status quo in terms of proceedings before the Court of Appeal or Supreme Court (which, in reality, can only be funded by large corporates or public sector bodies). With this in mind, the restrictions in the proposed Bill will not succeed as intended. Ironically, the remove a limited appeal right previously used by community objectors.
- As small business owners and operators, and often important parts of our local communities the ability to appeal LAP's gives us an equal voice. Many of our members would not have the ability to launch a judicial review therefore LAP appeals are often their only option to have a voice.

Changes to LAPs and licences

(Your name/name of organisation) opposes the provisions of the Bill which empower DLCs to decline a licence renewal application if it would be inconsistent with an LAP.

- Sensitive sites, such as reserves, childcare facilities, medical centres, or places of worship, are often identified in LAPs. It is possible for LAPs to specify that a licensed premises should not be within 500m of a sensitive site.
- Under the Bill, if a new sensitive site was established within 500m of an existing licensed premises, a sensitive site prohibition in an LAP could force the closure of that pre-existing premises irrespective of whether it was well run or valued by the community. Small local businesses are at the risk of being thrown out of business through no fault of their own.
- We believe a more sophisticated approach should be taken. If an LAP is to apply for renewals:
 - a. Applicable elements of an LAP should be specific to renewal applications only; and
 - b. Those elements should be discretionary and framed in an evaluative manner (and not be prescriptive or as onerous as those that apply to applications for new licences).

Objections to applications

(Your name/name of organisation) opposes the provisions which broadens the type of persons that can object to a licence application.

- Currently, an objector must establish a “greater interest in an application...than the public generally”. This has been interpreted as living within 1-2km of the application site or “doing business” in the locality. However, under the Bill, self-appointed “public interest groups” can effectively object to any application. For example, a group based in Wellington that is fundamentally opposed to off-licences can object to an application in Dargaville. However, that group is not part of the Dargaville

community. Broader district or national concerns about alcohol harm should be addressed in the Act or LAPs, not via site specific applications.

- This means objections could be less specific to applications and generalised. We believe this will be detrimental to the licensing system overall, prolonging the application process and resulting in inefficiency.

Changes to licensing hearings

(Your name/name of organisation) opposes the proposed reforms to licensing hearings.

- The Bill suggests licensing hearings are legalistic and adversarial in nature. In most instances that we are aware of, hearings are run as a meeting type format where people share ideas or concerns, with little formality.
- As a matter of fact, licensing decisions are made by reference statutory criteria (and this will continue under the Bill). Therefore, it is inevitable that some legal matters will arise when a contested application is considered by a District Licensing Committee.
- The major change proposed is the removal of cross-examination. In our view, this is not a good option because:
 - a. Cross-examination enables parties to get to the truth;
 - b. Objector evidence can be very generalised, and not specific to a particular application;
 - c. Cross-examination by objectors can often reveal that an applicant does not have a detailed knowledge of the application or the Act. The removal of cross-examination may, to some extent, shield bad operators;
 - d. A considerable burden will be placed on DLC's to interrogate the evidence.
 - e. Pre-exchange of evidence will always be required and will place further administrative burdens on DLC's.