

ALCOHOL LICENSING LAW IN AOTEAROA

LEGISLATION

The **Sale and Supply of Alcohol Act 2012** gives communities a voice

The aim of the Act is:

To ensure the **safe and responsible sale**, supply and consumption of alcohol

To **minimise the harm** from excessive and inappropriate drinking, including crime, disorder, public nuisance and negative public health outcomes

The law recently changed and Objecting is now easier than it used to be!

ALCOHOL LICENCES

On-licence (bars/restaurants, caterers – cannot take alcohol offsite)

Off-licence (bottle stores/ supermarkets/ online retailers)

New licence applications are for **one year**

Licence renewals are for **three years**

Lodging an **Objection** is how you raise your concerns with the licence to your local council and have your voice heard.

Alcohol related harm could be litter, noise, violence, graffiti, property damage, underage drinking, and health and safety concerns.

ALCOHOL HARM IN AOTEAROA

Alcohol is a class 1 carcinogen alongside cigarettes and asbestos

26% of suicides are linked to alcohol

1 in 4 (25%) past-year drinkers have drunk hazardously

- 2 in 5 (40%) young adults drink hazardously

Most harmful drug in New Zealand (outranking methamphetamine (P), synthetic cannabinoids, and tobacco)

Approximately one-third of all Police apprehensions involve alcohol

- 1 in 5 fatal crashes
- 2 in 5 violent offences
- Over 300 alcohol-related offences every day

Around 800 (5.4%) deaths attributable to alcohol each year (43% of all deaths attributed to alcohol are due to injuries, 30% to cancer and 27% to a variety of other chronic diseases)

Death rate for Māori is disproportionately higher (243% higher) – 34 deaths per 100,000 compared to 14 deaths per 100,000 for non-Māori.

THE PROCESS



*“If not **you**, then **who**?*
*If not **now**, then **when**?”*

How to Object to a Licence Application

OBJECTIONS

Communities can **object** to licence applications under:

- section **105** for new licences
- section **131** for renewals, and

WITHIN 25 WORKING DAYS OF NOTIFICATION

1. Provide **contact details** (name, email, phone, address)
2. Specify the **grounds** in the Act on which they object
3. **Sign and date** the objection

FURTHER CONTEXT...

- DLCs want to hear why communities are concerned
- Communities can express **real-life** issues they may face which aren't captured with statistics or data
- Objections can discuss positive things in the community that could be negatively impacted or made worse
- Later in the process, if evidence is sensitive, a non-publication order can be requested to help protect privacy
- Community objectors can object to the licence being granted in its entirety **AND ALSO** request conditions be attached to it (e.g. shorter hours; restrictions on sale of items such as "RTDs" – Ready To Drinks)
- Objections only need to be a brief outline of concerns, which are expanded on later within evidence

OBJECTIONS DO NOT NEED TO...

- ...provide detailed evidence
- ...confirm attendance at the hearing
- ...be sent to the applicant
- ...include any filing fees (participation is free for the community)

GROUNDS FOR OBJECTING

When it comes to
justice, there is no
easy way to get it.
You can't sugarcoat it.
You have to take a
stand and say,
'This is not right.'

Claudette Colvin,
pioneer of the Civil Rights Movement

GROUNDS FOR OBJECTING

1.

The suitability of the applicant;

2.

The days and hours of sale;

3.

The design and layout of the premises;

4.

Whether amenity and good order of the area would be substantially reduced;

5.

Whether amenity and good order of the area would be substantially reduced;

6.

The undesirability of further licences where amenity and good order have already reduced;

7.

Current, and possible future, levels of noise, nuisance and vandalism;

8.

The number of other licensed premises in the area; and

9.

Compatibility with the current and future use of surrounding properties.

GROUNDS FOR OBJECTING S105 NEW LICENCES

- (a) the object of this Act:
- (b) the suitability of the applicant:
- (c) any relevant local alcohol policy:
- (d) the days on which and the hours during which the applicant proposes to sell alcohol:
- (e) the design and layout of any proposed premises:
- (f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:
- (g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:
- (h) whether (in its opinion) 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:
- (i) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—
 - (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
 - (ii) it is nevertheless desirable not to issue any further licences:
- (j) whether the applicant has appropriate systems, staff, and training to comply with the law:
- (k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.

GROUNDS FOR OBJECTING S131 LICENCE RENEWALS

(a) the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1):

(a) the object of this Act:

(b) the suitability of the applicant:

(c) any relevant local alcohol policy:

(d) the days on which and the hours during which the applicant proposes to sell alcohol:

(e) the design and layout of any proposed premises:

(f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:

(g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:

(j) whether the applicant has appropriate systems, staff, and training to comply with the law:

(k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.

(b) whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence:

(c) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:

(d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.

THE OBJECT OF THE ACT



Can object under this ground if they believe that the granting of the licence would:

- Promote unsafe or irresponsible sale, supply and consumption of alcohol
- Increase harm caused by the excessive or inappropriate consumption of alcohol in the community

SUITABILITY OF THE APPLICANT



Objectors might not have knowledge of the applicant as a person; they should not pretend to.

- If the applicant runs other stores, Objectors may have knowledge of how well or poorly those operate
- Objections can be raised if the business plan and risk mitigation is poor
- Can object on this ground if it is felt the applicant has not made any (or enough) effort to engage with the community about their plans

AMENITY AND GOOD ORDER



Can object to the application for a **new** licence if they believe that granting the licence would make the amenity and good order of the area **materially worse**, e.g.

- An increase in crime, vandalism, rubbish, noise issues or damage to property
- Services close by being impacted (such as places of worship, schools and mārae, parks, reserves, community halls, sports centres)
- Increases in traffic and parking problems
- Proximity to public transport (especially school age users)

Objectors might feel the neighbourhood currently has a positive feel or that it is already unsafe. In either case they can raise concerns a new licenced premises would make it worse

AMENITY AND GOOD ORDER



Renewal application

Can object to an application for the renewal of an existing licence if they believe that declining the application would improve the amenity and good order of the area by a material amount, e.g. less crime, less rubbish and vandalism, less noise problems, people feeling safer and more able to go about their daily lives, less loitering, improved use

DAYS AND HOURS



Can object if they believe the operating hours proposed by the applicant is inappropriate.

Objectors can request conditions on the licence that could solve or mitigate the problem, e.g. the business is not open on certain days or shuts by a certain time, or between certain hours

DESIGN AND LAYOUT



Can object if they believe the design and layout of the premises is inappropriate or may cause problems, e.g. if the layout may make the premises a target for burglaries, or if children could see into the shop.

This includes advertising. **They can object** if the method of advertising could be harmful, e.g. if it promotes risky drinking through advertising low cost alcohol, RTDs or single sales.

Objectors can request certain design or layout features not be allowed, or certain features are required, as a condition of the licence.

SALE OF OTHER GOODS AND SERVICES

Can object if they believe the provision of other services alongside alcohol is inappropriate, e.g. if the store attracts young people (under 18s), it may not be appropriate to sell alcohol and whatever attracts the young people (say, confectionary) in the same store



STAFF AND SYSTEMS



You will need to ask the Council for the Licence Application in order to Object on this Ground.

Can object if they believe the applicant does not have the necessary systems or enough (trained) staff in place to prevent alcohol related harm. Objectors need to be confident talking about business matters if they object on this ground.

- Does the applicant know who their market will be?
- How will they meet their needs?
- How will they ensure that there is no sale to minors?
- Will there be enough parking?
- What CCTV is there and what do they do with the footage?
- How many stores does the licence holder operate and can they give enough time the one being applied for?

LOCAL ALCOHOL POLICY



The Council might have a local alcohol policy (LAP), which can usually be found on the **Council website**

Can object to an application if they believe that it would breach the LAP.

The DLC does not have to follow the LAP, but if you raise it, they usually will.

Renewals can now also be objected to on this basis.

NEXT STEPS

The Council will let you know that they have received your objection

They will send copies of your Objection to the Applicant, Police and Medical Officer of Health

The Applicant, Police and Medical Officer of Health or Licensing Inspector may invite you to a hui for further discussion. You are not obliged to attend any hui if you are not comfortable.

If your Objection is denied, you have a right of appeal.

AGENCIES THAT REPORT OF LICENCE APPLICATIONS

Council's Alcohol Licensing Inspector (must report)

Medical Officer of Health (must make enquiries, may report)

Police (must make enquiries, may report)

Police or the Medical Officer of Health might not report if...

- Noone opposes the application
- They feel there are no issues related to their area of expertise
- They do not have the resources, and feel a need to prioritise other alcohol licensing matters

Can still object because of matters an agency could have dealt with, e.g. regular fights an objector witnessed outside premises, even though there was no police report to the licence application

EVIDENCE

Speak your truth, even
if your voice shakes.

OBJECTIONS NEED TO BE BACKED BY EVIDENCE

You need to prepare what you will say at the hearing.







Your **evidence** – what you, and any witnesses that you call on, will say – needs to be submitted.

Do not try and introduce surprise evidence at the hearing.

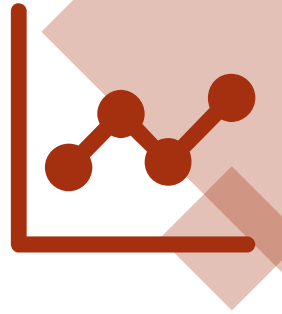
For Objections to carry weight they need to be backed up with evidence and Objectors need to appear at the Hearing and speak to it, if they don't attend the Hearing the DLC will ignore their Objection.

OBJECTIONS NEED TO BE BACKED BY EVIDENCE

Evidence can take lots of forms;

-  • **Stories** about what goes on in the community already (**good things and bad things**)
-  • Stories about **vulnerable individuals / groups** they know about in the area
-  • **Experiences** in and around other bottle stores / licenced premises
-  • Stories of how good service providers have **interacted** with the community in the past
-  • They can talk to relevant **crime, nuisance and health** matters they have seen in their neighbourhood
-  • **Photos, videos or petitions** can also be included to support concerns or provide evidence of harm.

OBJECTIONS NEED TO BE BACKED BY EVIDENCE



Evidence is best if it is **provable**; photos, videos, police callouts, research or media related to the area.

The **Index of Multiple Deprivation** (IMD) is a measure used by researchers and policy makers to identify areas of high deprivation in New Zealand based on a set of indicators that capture different aspects of deprivation, such as income, education, employment, health, housing, and crime this can be a useful tool to include in your evidence to highlight any vulnerable communities nearby <https://imdmap.auckland.ac.nz/download/>

Your **local Police Officer or Medical Officer of Health** may be able to help you obtain this information.

Reviews or complaints on **Facebook** or **Google** or posts in the local **Facebook Community Pages** could also help provide evidence of your concerns.

PRIVACY



When you write your evidence/submissions you may have concerns that its content is sensitive and private to you or other people in your community.

For example, you may have had alcohol addiction issues which feel relevant to your objection but which you would prefer not to discuss publicly

You will have an opportunity to request a **non-publication order** from the DLC so your evidence can be heard without reference to your name.

Community Law may be able to assist in requesting a non-publication order or trying to make sharing your evidence more comfortable for you.

BEFORE THE HEARING

- After submitting your objection the Council will set dates for you to file your evidence and a date/s for the hearing
- You can call witnesses to appear and give evidence at the hearing with you
- You can request to participate via telephone or audiovisual link at the hearing to speak to the DLC
- You can ask your Council if they have scheduled you a specific time to speak to the DLC
- Reach out to Community Law (www.communitylaw.org.nz/alcohol) for support preparing for the Hearing

CALLING WITNESSES

- You can call witnesses to appear and give evidence at the hearing with you
- A witness is somebody who has seen, heard, or experienced harm; or can otherwise validate your concerns
- A witness could also be someone who has expertise on alcohol harm
- They could also be a community members who were not comfortable objecting in their own right
- You are an expert on your community

HEARINGS

Be [REDACTED]
[REDACTED] Seen
Be [REDACTED]
[REDACTED] Heard

HEARINGS

Objectors must appear at the Hearing in order for their objection and evidence to be given any weight and consideration by the DLC.

There are three people on the District Licencing Committee. They will hear what everyone has to say about the application.

The person applying for the licence will talk about why they want to do so and answer any questions.

Those who have reported on the application for the council, Police and Public Health will present their reports and answer questions.

Objectors will be sworn in to present their thoughts and answer questions. Being “sworn in” means you will make a statement promising to speak truthfully.

Often the Applicant will get to respond to concerns raised.

The Committee might ask your thoughts on special conditions for the licence - such as the opening/closing hours and restrictions on signage and advertising.

The hearing will end and the Committee will decide about the application after the hearing and let everyone know.

What difference one licence can make...

South Waikato DLC – Tokoroa, May 2023

“It is clear to the Committee that the amenity and good area has improved after the previous operator ceased trading in 2021. The MOoH told us that from November 2020 to November 2021 alcohol ED admissions were 188 and 3 deaths when this store and Thirsty Liquor were operating.

From November 2021 to November 2022 alcohol ED admissions dropped to 99 and 1 death when this store and Thirsty Liquor were not operating.”