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**COMMUNITY LAW CENTRES O AOTEAROA SUBMISSIONS**  
**SALE AND SUPPLY OF ALCOHOL (COMMUNITY PARTICIPATION)**  
**AMENDMENT BILL**

**Dated: 10 February 2023**

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**COMMUNITY LAW CENTRES O AOTEAROA**  
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## INTRODUCTION

1. Community Law Centres o Aotearoa (**CLCA**) supports the intention behind the Sale and Supply of Alcohol (Community Participation) Amendment Bill (**Bill**).
2. We outline below recommended amendments and further changes to the Sale and Supply of Alcohol Act 2012 (**Act**).
3. Our submissions are based on our experience and legal knowledge of the Act as it currently plays out in communities around Aotearoa, largely informed by a project we have been running since 2018 which provides free legal education and advice for communities to participate in alcohol licensing processes.
4. The contact for this submission is Jessica Durham on [ahrp@clca.co.nz](mailto:ahrp@clca.co.nz) please contact us to discuss any matters outlined herein.
5. We wish to be heard by the Select Committee and request the maximum time available to reflect the expertise we have in this field.

## RECOMMENDATION SUMMARY

6. CLCA recommends these changes to the Act be incorporated into the Bill:
  - 6.1. Te Tiriti o Waitangi, and the partnership entailed therein, is explicitly reflected throughout the Act and included in the Object of the Act<sup>1</sup>.
  - 6.2. Licensing committee and licensing authority procedures incorporate Tikanga Māori principles.
  - 6.3. Every District Licencing Committee (**DLC**) includes a decision-making Tāngata Whenua nominated member (that has mana whenua of the Iwi/Hapū rohe affected by the application).
  - 6.4. Tāngata Whenua are included as partners and participants *at all* levels of the licensing process, including on the licensing authority.
  - 6.5. Every territorial authority undertakes engagement with Tāngata Whenua holding mana whenua of the affected rohe as to how, when

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<sup>1</sup> Section 4 of the Act

and to what extent they would like to be involved in licence applications in their rohe.

- 6.6. Whānau, Hapū and Iwi are included throughout licensing processes including as key stakeholders, valued community voices and experts on the disproportionate alcohol harm suffered by Māori.
- 6.7. Participation of Tāngata Whenua and the community in individual licence applications is resourced, maintained, and strengthened in the Act on a national and local scale.
- 6.8. A National Alcohol Policy (**NAP**) is developed with national limits on licence types and licence density to restrain proliferation of outlets as well as to provide national direction to DLCs on inclusion of Tikanga Māori principles and embedding Te Tiriti o Waitangi responsibilities throughout licensing processes.
- 6.9. Appeals to the NAP are prohibited.
- 6.10. If the NAP is not legislated for, then Local Alcohol Policies (**LAP**) become mandatory for every territorial authority.
- 6.11. Appeals to LAPs are prohibited.
- 6.12. The NAP and LAPs must be given effect to by new licences as well as renewals.
- 6.13. The criteria for issue of licences at s105 and s131 be expanded to include enhancing the benefit to the community and particularly Tāngata Whenua, and proliferation of outlets and cultural considerations, or lack thereof, become one of the grounds for objection to licensing applications.
- 6.14. Police and the Medical Officer of Health are elevated from being reporting agencies to being included as decision-making members on every DLC.
- 6.15. Qualification requirements are introduced for territorial authority appointed DLC members.
- 6.16. A qualified barrister/solicitor with at least seven years' experience is included on each DLC.

- 6.17. Quorum requirements are adjusted according to new DLC composition and extended to ensure scrutiny of every licence application.
- 6.18. National resourcing is allocated to support DLCs, to ensure ongoing capacity and capabilities of members, and to prioritise natural justice ensuring Tāngata Whenua and Objectors' voices are heard and every application is duly scrutinised.
- 6.19. National resourcing is allocated to support Tāngata Whenua and Objectors, ensuring their capacity and capability to engage with licensing processes.
- 6.20. An auditing function for the recording and reporting of applications and their outcomes is introduced, which includes legislative accountability.
- 6.21. Mandatory notification requirements be aligned and extended, including the time the community has to respond and consistency of approach nationwide.
- 6.22. Allow any person, group or organisation to object.
- 6.23. Remote access to hearings may be requested by all parties.
- 6.24. Avoid unnecessary formality at hearings.
- 6.25. Allowances are made that acknowledge the evidence presented by Objectors may not meet traditional formal expectations, but understanding is given to the disparities and resource limitations between Objectors and Applicants.
- 6.26. Where our recommended changes to DLC composition are followed, we support DLCs holding the right of cross-examination.
- 7. The remainder of these submissions provide the background and evidence contributing to these recommendations and CLCA's position.

## **BACKGROUND**

- 8. CLCA is the national body that coordinates and advocates for the 24 Community Law Centres (**CLCs**) across Aotearoa. Our member CLCs work out of over 140 locations to provide free legal help to those who are unable to pay for a private lawyer and do not have access to legal aid. As well as around

240 staff, CLCs' services are supported by more than 1,200 volunteer lawyers who operate, or assist with, legal advice clinics and deliver free assistance. Six of these CLCs have been providing free legal education and advice to community members wanting to participate in DLC hearing to object to alcohol licences.

9. Each year, CLCs provide free legal support to 45,000 clients and free law-related education to 30,000 people. In addition, free legal information is provided via the Community Law Manual (the digital version of which averages 4,000 views per day) as well as an estimated 200,000 people who contact CLCs directly. Te Ara Ture is the nationwide clearinghouse for pro bono legal services, and is a division of CLCA.

## **TE TIRITI O WAITANGI**

10. Te Tiriti o Waitangi is the founding document of Aotearoa that established the present day Government. Te Tiriti o Waitangi was signed by over 500 Rangatira representing Whānau, Hapū and Iwi to maintain Rangatiratanga over their taonga. guaranteed under Article 2 & 3 of Te Tiriti o Waitangi.
11. CLCA has a strong and positive commitment to Te Tiriti o Waitangi. Our partnership under Te Tiriti o Waitangi is led and overseen by the Māori Caucus whose primary role is to uphold Te Tiriti o Waitangi in CLCs across Aotearoa.

## **ALCOHOL HARM REDUCTION PROJECT**

12. Over the last five years CLCA has, in collaboration with Te Whatu Ora (previously Te Hīringa Hauora/Health Promotion Agency), been running a demonstration Alcohol Harm Reduction Project (**Project**) which provides legal support to community members who object to alcohol licence applications in their locality. The Project currently remains a pilot with five CLCs delivering information, resources and assistance to communities subject to an alcohol licence application. The Project has been delivered in Tai Tokerau (Northland), Auckland (Central and South), Waikato, Wellington and Hutt Valley, and Canterbury and West Coast.
13. The Project's purpose is to build the capacity and capability of communities suffering the most from alcohol harm. We aim to empower those high-risk communities to participate in alcohol licensing processes.

14. This Project has increased the depth of understanding across CLCs and CLCA about whether the Act delivers the intended benefits to affected communities, particularly those who are vulnerable and at a high-risk of alcohol harm, as envisaged by Parliament when originally passing the Act.
15. The focus of the Project is to support communities with high deprivation index scores of a 9 or 10<sup>2</sup> and primarily focus on new off-licence applications.
16. Through the Project, CLCA has gained a deep knowledge of the current Act and the way it is realised in the community, and therefore speaks with an authority based on lived experience. We also have direct knowledge of how the current Act affects high-deprivation and Māori communities statistically at the highest risk of alcohol-harm.
17. We have found that objecting to an alcohol licence under the current Act is an enormous challenge for people, even for those most able to advocate for themselves.
18. Even with support from the Project, it is a difficult and onerous process to navigate. Communities already struggling with resources and the time to meet fundamental needs find it increasingly challenging to direct their efforts and energies into advocating for themselves and others through objection processes.
19. We found that the vision of the current Act to include the voice of the community has been undermined by the imbalance of power between the commercial interests and resources of licence Applicants which affects the wellbeing of the community. Even so, people *do* object because it is important to them and their communities.
20. Communities are fully aware of the harm, and the consequential harm, of alcohol use. They want to maintain, or regain, some control of the number of alcohol licences in their community. Māori are particularly aware of this harm and need to be heard.
21. The community is the primary stakeholder and must live with the outcome and consequences of any licence application – for decades to come.

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<sup>2</sup> New Zealand Index of Deprivation ( NZDep) index 7 -10 <https://ehinz.ac.nz/indicators/population-vulnerability/socioeconomic-deprivation-profile/>

22. In our experience, once a licence is granted, it is rare for it to be declined at future renewals. In practice, only in the most egregious circumstance is a renewal declined.
23. We offer these submissions from a platform of understanding of the Act and community experience, and utilising the knowledge of the CLCA membership and Māori Caucus members. In particular, we reference our learnings of how the Act impacts the experience of communities in their efforts to participate and influence the way alcohol is sold in their localities.
24. Recent research and analysis undertaken by CLCA on the statistics of alcohol licences and deprivation across Aotearoa also informs our submissions.
25. **We have seen the calls for evidence-based policy, particularly from those opposing this Bill and further reform of the Act. We have spent significant time and effort collecting and collating statistics and research from across Aotearoa to build our submissions and recommendations on a foundation of factual evidence.**
26. We commend the Bill's intentions, to increase community voices and participation by removing the current legalistic and adversarial nature of licensing hearings. We also recommend further changes that would facilitate greater fulfilment of the Bill's objectives.

## **TĀNGATA WHENUA**

27. For the purposes of these submissions, we tautoko the Resource Management Act 1989 definition of Tāngata Whenua being the Iwi or Hapū that holds mana whenua over a particular area. However, **we reiterate the differences and perceptions that vary between Crown definitions of territorial authority boundaries and Tāngata Whenua representation, and what Tāngata Whenua, Iwi, Hapū and Whānau with mana whenua to an area may view as their rohe and meaningful consultation.**
28. Wherein these submissions **we refer to Tāngata Whenua, we are describing all Whānau, Hapū, Iwi and Tāngata Whenua groups holding mana whenua, mana moana and mana tāngata in rohe whenua/moana and the fundamental need to partner with and include all of these groups in licensing processes as well as through active consultation where licence applications fall within their rohe.**

29. Legislation needs to ensure the right people are participating in decision making processes as well as consultative processes. The Act needs to clearly define, engage and work with all Tāngata Whenua, **not just Iwi settlement/representative organisations.**
30. We encourage territorial authorities to ensure ongoing partnership with all Tāngata Whenua mentioned above, and to continuously strive to understand the appropriate engagement and consultation needed within each rohe, through alcohol licensing and all other co-governance kaupapa, and to support Tāngata Whenua capacity and capability to fully engage in any processes they seek to.

## CLCA RESEARCH AND EVIDENCE

31. Throughout the final quarter of 2022, CLCA undertook significant research and analysis into population, demographics, deprivation, and off-licence figures from across Aotearoa<sup>3</sup>. We found:
  - 31.1. Nationally, there is an 87% correlation between the proportion of a population that is a 9 or 10 on the deprivation index (**9/10 DI**) and the proportion of Māori in that population.
  - 31.2. Nationally, there is an 89% correlation rate between the number of off-licences per capita and the number of gaming machines per capita in a territory.
  - 31.3. Nationally, there is **an off-licence operating for every 1,153 people, including children** and under-18s.
  - 31.4. Where there is a disproportionate rate of 9/10 DI (over 21% of the population), territorial authorities are 25% more likely to have a proliferation of off-licences.

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<sup>3</sup> Research was compiled from 2018 NZ Census population data, alcohol licence figures supplied by DLCs, and Problem Gambling Foundation's reports based on 2020 Department of Internal Affairs gaming machine data. Research at Annexure 1.

- 31.5. Where territorial authorities have a higher proportion of Māori (over 17% of the population) there is a 41% greater likelihood of a proliferation of off-licences<sup>4</sup>.
- 31.6. This **shows that Māori Communities are being targeted by the proliferation of off-licences.**
32. In January 2023, CLCA made Local Government Official Information and Meetings Act 1987 (**LGOIMA**) information requests to each of the 67 DLCs for the numbers of approved, declined and withdrawn licence applications for 2022. We sought these figures for both new and renewal applications of on and off-licences. The statutory deadline for responses was by 5pm, 10 February 2023 at the latest, the following territorial Authorities failed to meet this deadline<sup>5</sup>:
- 32.1. Kawerau District Council
- 32.2. Matamata-Piako District Council
- 32.3. Ōpōtiki District Council
33. Based on responses from the 64 territorial Authorities that responded within statutory timeframes, in 2022:
- 33.1. 5,166 licence applications (both on and off-licences) were made;
- 33.2. **5,034 were approved (97.44%);**
- 33.3. **226 licence applications were objected to (4.37%);**
- 33.4. **160 were opposed by reporting agencies (3.10%);**
- 33.5. **19 were declined (0.37%), and**
- 33.6. **113 were withdrawn (2.19%).**

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<sup>4</sup> We excluded territorial authorities where populations were within or below the national averages of 21% 9/10 DI, or 17% Māori to account for the outlier effects of wine country regions. To test for proliferation, the national average of off-licences of 1:1,153 was used as 100% in all of these correlation figures. Without excluding areas with 21% or less 9/10 DI and populations of 17% or less Māori, the nationwide correlation between off-licences:Māori is -3%, and the nationwide correlation between off-licences:9/10 DI is -19%.

<sup>5</sup> Research at Annexure 2.

34. The following Councils received no objections and no oppositions to any licence applications<sup>6</sup>:
- 34.1. Buller District Council (42% 9/10 DI, 217% national average off-licences)
  - 34.2. Carterton District Council (138% national average off-licences)
  - 34.3. Central Otago District Council (695% national average off-licences)
  - 34.4. **Chatham Islands Council (69% Māori, 63% 9/10 DI, 699% national average off-licences)<sup>7</sup>**
  - 34.5. Gisborne District Council (52% Māori, 49% 9/10 DI, 158% national average off-licences)
  - 34.6. Invercargill City Council (26% 9/10 DI)
  - 34.7. Kaipara District Council (24% Māori, 33% 9/10 DI, 151% national average off-licences)
  - 34.8. Mackenzie District Council (451% national average off-licences)
  - 34.9. Manawatu District Council
  - 34.10. Marlborough District Council (317% national average off-licences)
  - 34.11. Masterton District Council (21% Māori, 25% 9/10 DI, 113% national average off-licences)
  - 34.12. Ōtorohanga District Council (33% Māori)
  - 34.13. Palmerston North District Council (19% Māori, 22% 9/10 DI)
  - 34.14. Rangitīkei District Council (26% Māori, 29% 9/10 DI)
  - 34.15. South Taranaki District Council (27% Māori, 37% 9/10 DI, 105% national average off-licences)
  - 34.16. Southland District Council (146% national average off-licences)

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<sup>6</sup> Included in brackets is disproportionate statistics (above the national spread) affecting the territories

<sup>7</sup> Chatham Islands has a gaming machine for every 13 people (including children).

- 34.17. Stratford District Council (25% 9/10 DI, 146% national average off-licences)
- 34.18. Tararua District Council (24% Māori, 34% 9/10 DI, 135% national average off-licences)
- 34.19. Upper Hutt City Council
- 34.20. Waimate District Council (22% 9/10 DI, 103% national average off-licences)
- 34.21. Waipā District Council
- 34.22. Wairoa District Council (63% Māori, 76% 9/10 DI, 138% national average off-licences)
- 34.23. Waitaki District Council (212% national average off-licences)
- 34.24. Westland District Council (280% national average off-licences)
- 35. The following Councils received no objections but did have oppositions from reporting agencies:
  - 35.1. Dunedin City Council
  - 35.2. Hastings District Council (28% Māori, 29% 9/10 DI, 158% national average off-licences)
  - 35.3. Horowhenua District Council (24% Māori, 45% 9/10 DI)
  - 35.4. Kaikōura District Council (19% Māori, 265% national average off-licences)
  - 35.5. Kāpiti Coast District Council (180% national average off-licences)
  - 35.6. Porirua City Council (22% Māori, 41% 9/10 DI)
  - 35.7. Thames-Coromandel District Council (224% national average off-licences)
  - 35.8. Timaru District Council
  - 35.9. Waikato District Council (26% Māori, 22% 9/10 DI)

36. Christchurch City Council received **an objection to every off-licence application, however no licence applications were declined.**
37. We list these results to show how **the current Act is not working to facilitate community participation and minimise alcohol harm.**
38. We separated the list where objection **to licence applications was solely from reporting agencies** to highlight the need to increase reporting agencies' authority and decision making.

## **RECOMMENDED CHANGE – INCORPORATION OF TE TIRITI O WAITANGI THROUGHOUT THE ACT**

39. The below statistics show various alcohol-related harms disproportionately suffered by Māori, proven to be associated with, caused by, or exacerbated by alcohol:
  - 39.1. Death – 8% of Māori deaths are attributed to alcohol<sup>8</sup>.
  - 39.2. Suicide – Māori males are 1.85x more likely to commit suicide and Māori females are 2.22x more likely<sup>9</sup>, 25% of suicides are linked to alcohol<sup>10</sup>.
  - 39.3. Shortened lifespan – Māori die on average seven years earlier<sup>11</sup>.
  - 39.4. Potentially avoidable hospitalisations –60% higher in Māori and Pacifica<sup>12</sup>.

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<sup>8</sup> The burden of death, disease and disability due to alcohol in New Zealand Research summary September 2004 Jennie Connor, Joanna Broad, Rod Jackson, [https://www.hpa.org.nz/sites/default/files/imported/field\\_research\\_publication\\_file/BurdenExec.pdf](https://www.hpa.org.nz/sites/default/files/imported/field_research_publication_file/BurdenExec.pdf)

<sup>9</sup> Ministry of Health Suicide Statistics, 2010-12 <https://www.health.govt.nz/our-work/populations/maori-health/tatau-kahukura-maori-health-statistics/nga-mana-hauora-tutohu-health-status-indicators/suicide-and-intentional-self-harm>

<sup>10</sup> 'Disheartening but not surprising': 25% of suicides linked to alcohol, Rachel Thomas, 15 July 2022 Stuff <https://www.stuff.co.nz/national/health/129276419/disheartening-but-not-surprising-25-of-suicides-linked-to-alcohol>

<sup>11</sup> Whanau Ora Submission to Inquiry into Māori Health Inequities, 28 August 2019 <https://whanauora.nz/wp-content/uploads/2021/06/WOCA-submission-to-Inquiry-into-Maori-Health-Inequities.pdf>

<sup>12</sup> Potentially avoidable hospitalisations in New Zealand, 1989-98, G Jackson, M Tobias <https://pubmed.ncbi.nlm.nih.gov/11494988/>

- 39.5. Cancer – Māori are 1.7x more likely to die from cancer. Alcohol is a class 1 carcinogen alongside cigarettes and asbestos<sup>13</sup>.
- 39.6. Māori have on average the poorest health status of any ethnic group in Aotearoa<sup>14</sup>.
- 39.7. Fetal alcohol spectrum disorder – recently 80% of presenting children were Māori<sup>15</sup>.
- 39.8. Children in state care – 60% Māori<sup>14</sup>.
- 39.9. Oranga Tamariki involvement – 50% Māori children<sup>14</sup>.
- 39.10. Crime victimisation – 26% Māori<sup>16</sup>.
- 39.11. Family violence – 80% of Māori women experience family violence in their lifetime<sup>17 18</sup>.
- 39.12. Incarceration - 45% of convictions and 52% of imprisonments are Māori<sup>19</sup>.
- 39.13. Deprivation – the income gap for Māori is \$2.6 billion per year<sup>20</sup>.

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<sup>13</sup> Doctors' stark alcohol warning: 'The more booze, the more cancer', Hannah Martin, 17 May 2022, Stuff <https://www.stuff.co.nz/national/health/300587250/doctors-stark-alcohol-warning-the-more-booze-the-more-cancer>

<sup>14</sup> FASD and the Waitangi Tribunal, Kathy Hunter, 4 April 2022, FASD-CAN <https://www.fasd-can.org.nz/fasd-and-the-waitangi-tribunal>

<sup>15</sup> Forsaken, New Zealand's shameful mismanagement of FASD, Paula Penfold and Louisa Cleave, 6 March 2022, Stuff <https://interactives.stuff.co.nz/2022/03/circuit/fetal-alcohol-spectrum-disorder-mismanagement-new-zealand/>

<sup>16</sup> Māori Highly Victimised by Crime, 11 July 2022, Ministry of Justice <https://www.justice.govt.nz/about/news-and-media/news/maori-highly-victimised-by-crime-survey-finds/#:~:text=M%C4%81ori%20make%20up%2026%20percent,latest%20report%20Highly%20Victimised%20People>

<sup>17</sup> Alcohol Related Violence in Families and Communities Fact Sheet, Alcohol Healthwatch [https://www.ahw.org.nz/Portals/5/Resources/pdf/Violence\\_F\\_Sheet.pdf](https://www.ahw.org.nz/Portals/5/Resources/pdf/Violence_F_Sheet.pdf)

<sup>18</sup> 'Every day I was beaten' - Māori women three times more likely to be killed by partner, Leigh-Marama McLachlan, 2 March 2020, RNZ <https://www.rnz.co.nz/news/te-manu-korihi/410738/every-day-i-was-beaten-maori-women-three-times-more-likely-to-be-killed-by-partner>

<sup>19</sup> Hāpaitia te Oranga Tangata, 16 July 2021, Ministry of Justice <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/hapaitia-te-oranga-tangata/>

<sup>20</sup> Inequality depriving Māori and the economy of \$2.6b every year, Carmen Parahi, 29 March 2018, Stuff <https://www.stuff.co.nz/business/102643651/inequality-depriving-maori-and-the-economy-of-26b-every-year>

- 39.14. Educational under-achievement – 80.6% of Māori achieve NCEA level 1 compared to the national rate of 85.8%<sup>21</sup>.
- 39.15. Unemployment – Māori unemployment is 5.5% compared to 3.4% nationally<sup>22</sup>.
- 39.16. 33.2% of Māori have a hazardous drinking pattern compared to 18.8% of adults nationally<sup>23</sup>.
40. These statistics **inarguably evidence the disproportionate harm suffered by Māori arising from alcohol, systemic failures and inequitable outcomes experienced intergenerationally across Aotearoa.**
41. Māori did not have access to alcohol pre-settlement, alcohol was used as a colonisation tool by settlers in negotiations and trade. **Māori petitioned Parliament for help dealing with alcohol harm as early as 1874**, identifying the harms some still deny today, saying<sup>24</sup>:
- “It impoverishes us; our children are not born healthy because the parents drink to excess, and the child suffers; it muddles men’s brains, and they in ignorance sign important documents... turns the intelligent men... into fools ...cause of various diseases... liable to accidents... take improper liberties with other people’s wives... cause of men fighting... innumerable evils brought upon the Māori race by grog.”*
42. Given the history, ongoing harm, and evidenced targeting of Māori, a higher threshold of responsibility and consideration of Tikanga Māori, a **Māori perspective and partnership is required**, particularly in localities with higher proportions of Māori.
43. While colonisation and its effects, such as alcohol use have put Māori in a vulnerable place in some instances, this does not take away from the Rangatiratanga within Te Tiriti o Waitangi. **Alcohol use in the systematic processes of colonisation, has harmed Māori** in the healthcare system, including addiction. Te Tiriti o Waitangi outlines in Article 3 that Māori will be protected. This **process of colonisation has harmed Māori and the**

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<sup>21</sup> StatsNZ, 15 June 2020 <https://www.stats.govt.nz/news/education-outcomes-improving-for-maori-and-pacific-peoples>

<sup>22</sup> 3 August 2022, StatNZ <https://www.stats.govt.nz/news/unemployment-rate-at-3-3-percent>

<sup>23</sup> Annual Update of Key Results 2021/22: New Zealand Health Survey, 17 November 2022 <https://www.health.govt.nz/publication/annual-update-key-results-2021-22-new-zealand-health-survey>

<sup>24</sup> Petition to Parliament by Haimona Te Aoterangi and 167 others, 18 August 1874 <https://paperspast.natlib.govt.nz/parliamentary/AJHR1874-I.2.2.6.1>

**ongoing sale of alcohol without including Māori input, as the Treaty Partner, as to where alcohol is sold will continue this process of colonisation.**

44. The targeting, statistics, history, ongoing inequalities and inequitable outcomes, and the ongoing harm to Māori caused by alcohol must be viewed cumulatively and addressed through this Bill and changes to the Act.
45. **Māori must be included in decision-making regarding what is happening in their rohe** and therefore should be automatically involved in licensing processes for their rohe. This could vary between Whānau, Hapū and Iwi depending on the area and should be developed in partnership between territorial authorities and Tāngata Whenua. This is based on Article 2 of Te Tiriti o Waitangi and the Tikanga Māori principle of Rangatiratanga.
46. Whānau, Hapū and Iwi know what is happening in their rohe and have a better understanding of what works for them, so should be involved in decision-making processes. It is often when you hear from these experts, there can be bigger picture thinking about the health of the whole community, rather than a small area and the licenced premises.
47. It is the Crown's responsibility to ensure that legislation is Te Tiriti o Waitangi compliant and fulfils its obligations of the partnership as stated in Te Tiriti o Waitangi. The Act needs to go beyond a general statement or "Treaty clause", instead imposing clear, measurable obligations – as have been included in other legislation<sup>25</sup>.
48. The Act **must be consistent with Te Tiriti o Waitangi on all levels of the process and therefore ensure Māori participation as a Treaty Partner.**
49. The Supreme Court unanimously confirmed in *Ellis*<sup>26</sup> that **Tikanga Māori is common law, and specifically, is the first law in Aotearoa**. By majority, the Supreme Court held the colonial test for the incorporation of Tikanga Māori no longer applies, and the relationship between Tikanga Māori and common law will continue to evolve on a case-by-case basis.
50. At [98], it was held that **the exclusion of Tikanga Māori within a statute can only be made by unambiguous statutory provision** and that without such

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<sup>25</sup> Oranga Tamariki Act 1989 – section 7AA

<sup>26</sup> 2022 NZSC 114 Ellis <https://www.courtsofnz.govt.nz/assets/cases/2022/2022-NZSC-114.pdf>

a provision, “**statutes are to be interpreted consistently with Te Tiriti o Waitangi as far as possible**”.

51. The Legislation Design and Advisory Committee also provides direction on the incorporation of Tikanga Māori within legislation:<sup>27</sup>

*“New legislation should, as far as practicable, be consistent with fundamental common law principles and tikanga (which may require appropriate consideration of Māori language, customs, beliefs and the importance of community, whānau, hapū and iwi).”*

52. We recommend appropriate **Tikanga Māori principles and procedures are established both locally and nationally** through appropriate engagement and consultation with Whānau, Iwi, Hapū and Tāngata Whenua. Territorial authorities should be able to build off existing engagement and consultation partnerships already in place.
53. National guidelines need to be provided to DLCs and ARLA as to appropriate procedures and considerations incorporating Tikanga Māori.
54. The **lack of specific requirement or reference within the Act has been used to restrict and exclude Te Tiriti o Waitangi obligations** (regardless of *Ellis* and the Legislation Design and Advisory Committee Guidelines).
55. **The Alcohol Regulatory Licensing Authority (ARLA) has refused to acknowledge responsibilities under Te Tiriti o Waitangi** saying:<sup>28</sup>:

*“There is, however, no equivalent provision in the Sale and Supply of Alcohol Act 2012 which incorporates the Treaty of Waitangi or its principles. Nor is the Treaty of Waitangi part of the general law of New Zealand. As a result, the Treaty of Waitangi and its principles are not matters to which a DLC must have regard to under s105 of the Act.”*

56. ARLA has reaffirmed this position several times since, most recently in 2019.
57. The pivotal section in the Act that confers the opportunity to the community to influence the outcome of an alcohol licence application is s105 and s131 which set out the grounds on which to object to a licence under the Act; neither s105,

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<sup>27</sup>Legislation Design and Advisory Committee Legislation Guidelines, September 2021  
[www.ldac.org.nz/assets/documents/LDAC-Legislation-Guidelines-2021-edition-v2.pdf](http://www.ldac.org.nz/assets/documents/LDAC-Legislation-Guidelines-2021-edition-v2.pdf)

<sup>28</sup> *Morehu v Lake Rotoiti Hot Springs Limited* [2017] NZARLA 313 at [25] – [27]  
[https://forms.justice.govt.nz/search/Documents/ARLA/arla\\_DECN\\_133073826/ARLA\\_FULL.pdf](https://forms.justice.govt.nz/search/Documents/ARLA/arla_DECN_133073826/ARLA_FULL.pdf)

s131, nor the Object of the Act includes any reference to Te Tiriti o Waitangi obligations.

58. This has allowed DLCs to actively evade Te Tiriti o Waitangi obligations: in *L&H Graces Place Mangere Ltd (Hi Sports Bar) NZDLC*AK, (25 June 2018) at 23 the DLC chairperson states:

*"That is not to say that we do not turn our minds to the impact of any application on Māori, it simply points out that we are restricted by the Act as to the criteria that we can consider"*<sup>29</sup>

59. Without a specific provision requiring ARLA and DLCs give effect to Te Tiriti o Waitangi and incorporate Tikanga Māori, these **precedents continue to perpetuate and compound the disproportionate alcohol harm suffered by Māori.**
60. In our view incorporation of Te Tiriti o Waitangi cannot wait for the second review of the Act proposed to be considered in March 2023.
61. It is **critical that an obligation to give effect to Te Tiriti o Waitangi Partnership, through consultation, and incorporation of Tikanga Māori and Māori-empowerment be included throughout the Act without delay** [emphasis added].
62. **Failure to include provision for Te Tiriti o Waitangi and Tikanga Māori within this Bill would effectively continue to have an exclusionary affect given the positions entrenched into precedent by ARLA and DLCs** over the years to date.
63. We consider that the continuing **failure to give effect to Te Tiriti o Waitangi obligations and Tikanga Māori principles is contrary to Māori indigenous rights** as committed to under Article 2 and 3 of Te Tiriti o Waitangi, New Zealand Bill of Rights Act 1990, Human Rights Act 1993 and the United Nations Declaration on the Rights of Indigenous Peoples (2007)<sup>30</sup> because of the continued discrimination, inequalities, and systemic failures and disadvantages Māori suffer through alcohol-related harm and the failure to

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<sup>29</sup> L&H Graces Place Mangere Ltd ( Hi Sports Bar) NZDLC AK (25 June 2018) at 23

<sup>30</sup> Human Rights Commission <https://tikatangata.org.nz/human-rights-in-aotearoa/human-rights-and-te-tiriti-o-waitangi>

include Tāngata Whenua in decision-making processes directly continuing and exacerbating such harms.

64. For the reasons set out above, we recommend the following changes to the Act that should be included in the Bill. These would provide for a meaningful partnership with Māori:

64.1. **Te Tiriti o Waitangi obligations are included** in s4 – the Object of the Act and are included in s105 and s131 as grounds of objection. We also propose that the Object of the Act includes specific mention of health being a taonga under Te Tiriti o Waitangi.

64.2. **Tāngata Whenua are included as decision making members on every DLC** and granted equivalent elevated rights as to those we have recommended herein for Police and the Medical Officer of Health. This will require national and local resourcing to ensure the capacity and capability of Tāngata Whenua, Iwi and Hapū is supported to give full effect to partnership and Te Tiriti o Waitangi. The Tāngata Whenua appointed DLC representative should hold mana whenua to the Iwi/Hapū/rohe affected by the licence application.

64.3. **Māori have special status as a party by virtue of Te Tiriti o Waitangi partnership and acknowledgement must be made to the prejudice and disproportionate harms suffered.** Currently, s102(1) of the Act does not recognise the voice of Tāngata Whenua as a party in every community where a licence application has been made. Disregarding this reality actively prevents Māori participation in the DLC and ARLA. What this extended participation and consultation looks like should be developed in partnership with Tāngata Whenua, Iwi and Hapū on a national and local level.

64.4. **Māori are included as participants in all facets of the alcohol licensing process.** This should include ongoing partnership between Tāngata Whenua and Licensing Inspectors, through both licence application processes as well as ongoing monitoring. Tāngata Whenua should be updated by report of Inspectors' site visits. This mechanism will ensure oversight of licence holders and the effect on the surrounding community. It is also beneficial and necessary for a proportion of Licensing Inspectors to be Māori.

- 64.5. **That there is a seat on ARLA for Māori:** It is necessary for the voice of Māori to be heard at all levels of the licensing process. ARLA decisions carry significant and lasting weight as precedent by DLCs nationwide – they generate a body of case law. Many of the frequently used ARLA precedents are based on cases in which the licence Applicant was represented, yet the community was not, or did not even attend. This reflects an imbalance of power that affects communities for many years, sometimes decades, to come. This should include a decision-making seat on ARLA for a Māori representative with expertise on the systemic harms to Māori caused by alcohol as well as consultation with Tāngata Whenua, Iwi and Hapū in each rohe where a licence application is brought before ARLA.

#### **RECOMMEND CHANGES TO SECTION 4, OBJECT OF THE ACT**

65. It is CLCA's view that based on collected statistics and evidence set out herein, **the Object of the Act is failing to be met by current legislation and licensing processes.**
66. We recommend that the **Object of the Act include giving effect to Te Tiriti o Waitangi through ongoing partnership with Tāngata Whenua**, which is incorporated throughout the Act.

#### **RECOMMEND CHANGES TO SECTION 66, RECORD OF APPLICATIONS**

67. Based on the aforementioned enquiries to territorial authorities, Aotearoa has 4,077 off-licences operating. ARLA's licensing register from November 2022 showed a record of 2,980 current off-licences. There is a **reporting disparity of 1,097 off-licences.**
68. When enquiries were made to DLCs and ARLA as to the cause of the disparity in reported figures, both sides suggested any failure in reporting accuracy was due to the other side.
69. It was suggested ARLA does not keep a record of licences operating in the intervening period between when a licence has expired, the Applicant has lodged a renewal application, and the renewal application is processed, wherein the licence holder continues to operate.

70. Although s66 of the Act requires every licence application and decision be reported to ARLA (including those that are declined or withdrawn), ARLA advised us that in 2022 they had been told of only one licence application being declined nationwide. Procedurally, there is currently no auditing or monitoring of s66 obligations and reporting requirements.
71. We recommend an **auditing function is introduced, which includes legislative accountability at s66, for both DLCs and ARLA** to keep complete and up to date records that are published and publicly released quarterly.

#### **PROPOSED CHANGES TO SECTIONS 80-90, LOCAL ALCOHOL POLICIES**

72. We **support the removal of LAP Appeals**.
- 72.1. Under the Local Government Act 2002 (**LGA**), territorial authorities already consult, decide, and adopt annual plans, long term plans, bylaws and operational policies which are not subject to rights of appeal.
- 72.2. Removing LAP Appeals will create procedural alignment with other territorial authority decision making processes prescribed by the LGA.
- 72.3. Judicial reviews will remain available where procedural processes may have been breached.
- 72.4. Removing LAP Appeals will not inhibit natural justice, instead it will encourage community participation and democratic empowerment, levelling the operating environment and encouraging natural justice.
73. We recommend the **creation of a National Alcohol Policy (with no right of appeal)**, which would:
- 73.1. Require **ARLA keep a complete record of every operational licence**, including licences operating in the interim period between expiry and renewal.
- 73.2. Include auditing and accountability to ensure DLCs meet their s66 reporting obligations on a regular and ongoing basis (quarterly reporting of every licence application and outcome).

- 73.3. Provide national direction and **consistency of DLC procedures, including training and qualification requirements** of DLC members (elaborated on below).
- 73.4. Set **explicit guidance on incorporation of Tikanga Māori and giving effect to Te Tiriti o Waitangi**.
- 73.5. Increase regulatory controls for remote sellers.
- 73.6. Set national limits for each licence type.
- 73.7. **Extend consultative requirements where a higher risk of harm is likely**, due to:
- 73.7.1. Proliferation of outlets;
  - 73.7.2. Breadth of impact; and
  - 73.7.3. Vulnerable demographics.
- 73.8. Set **density limits for each licence type** (below are excerpts from a study evidencing alcohol outlet density and proximity increasing violent crime in Aotearoa)<sup>31</sup>:
- “Almost without exception, the increased availability of alcohol using various measures of alcohol outlet density is associated with an increase in alcohol-related harm such as crime or adverse health outcomes.”*
- “a 4% increase in binge drinking associated with each extra off-licence within 1km of home.”*
- “off-licence alcohol outlet density was significantly associated with higher levels of anti-social behaviour, drug and alcohol offences, family violence, and motor vehicle accidents”*
- “off-licence premises, which were a significant predictor of area-level violent crime incidence, regardless of geographic distance.”*
- “areas with the highest rates of violent offences also had the highest level of social deprivation”*
- “violent crime, access to alcohol outlets and alcohol outlet density are significantly associated regardless of licence type”*

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<sup>31</sup> Close proximity to alcohol outlets is associated with increase serious violent crime in New Zealand, Peter Day, Gregory Breetzke, Simon Kingham, Malcolm Campbell, December 2011  
<https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1753-6405.2012.00827.x>

*“results also show that as serious violent crime rates increase, alcohol outlet density and social deprivation increase”*

*“Policies to reduce the availability of alcohol should involve greater efforts to improve local alcohol retail environments including interventions restricting the establishment and trading hours of alcohol outlets, particularly on socially disadvantaged neighbours and neighbourhoods with vulnerable populations.”*

74. We recommend if a NAP is not legislated for **it should be mandatory for every territorial authority to adopt a LAP** (as recommended by the Law Commission<sup>32</sup>).

## **RECOMMEND CHANGES TO SECTION 101, NOTIFICATION REQUIREMENTS**

75. Currently, the notification of a licence application is confined to notice onsite (10 days after the application is filed with the DLC) and notification online or in newspaper (20 days after the licence application is lodged). The community then has 15 working days to respond.
76. Across Aotearoa, there is inconsistency in the notification process and where communities can go to find information on alcohol licence applications. This adds to the inaccessibility and confusion for communities wanting to be heard.
77. The current notification process does not adequately alert the community to an application nor provide adequate time to prepare an objection<sup>33</sup>. Furthermore, it does not allow adequate time for a community to be informed of and gain an understanding of their legal rights and the objection process.
78. We propose that **mandatory notification requirements be extended to include existing community communication channels, social media, as well as mandatory notification to Tāngata Whenua and Māori organisations within a 2km radius** of the licence premises.
79. We would further recommend the **development of a national tool which aligns notification procedures (in addition to current notification requirements) and give greater consistency and clarity** to communities across Aotearoa.

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<sup>32</sup>p151, Alcohol in our lives: Curbing the harm. Law Commission Report 114, April 2010, <https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20R114.pdf>

<sup>33</sup> Note that the timeframe is less than the 20 working days under LGOIMA and the Official Information Act, thereby restricting the ability to gather evidence.

80. We propose that the notification of the community is immediate upon the filing of the licence application by the Applicant and that the **community should have 35 days to respond**. This would not increase processing timelines beyond the existing regulation.

#### **PROPOSED CHANGES TO SECTIONS 102 and 128, OBJECTIONS TO APPLICATIONS AND RENEWALS**

81. We **support the replacement of 102 and 128 to allow any person to object, including groups or organisations**. We see this change as a meaningful step towards encouraging community participation and access to justice.
82. Some groups have raised concerns around a floodgate of objections to every licence application. We do not see this as a realistic risk given resourcing and capacity issues inherently faced by individuals and groups acting in the alcohol harm reduction kaupapa. However, **this concern could be addressed through sufficient resourcing for each DLC to ensure proper scrutiny is given to every licence application**.
83. Alcohol licensing has a direct and fundamental effect on communities, health, wellbeing and amenity and good order. We see it as critical that every licence application is considered, scrutinised, and commented on by the community (particularly Tāngata Whenua).
84. We recommend **national resourcing is allocated to enable communities to participate in alcohol licensing procedures**. This could include funding programmes such as our Project, Communities Against Alcohol Harm and other groups working to minimise harm through encouraging community participation. Communities need resourced support to prepare objections and evidence and to appear at hearings.

#### **RECOMMEND CHANGES TO SECTIONS 105 and 131, CRITERIA FOR ISSUE OF LICENCES AND RENEWALS**

85. We recommend changes to s105 and s131, so **that LAPs and the NAP must be given effect to when considering licence applications and renewals**.
86. Without insisting LAPs and the NAP must be given effect to, DLCs will maintain their unilateral decision making and ability to circumvent democratic

process by undermining LAP and NAP directives made through proper consultative processes.

87. This will mean a continuation of inconsistent decision making and DLC procedures across Aotearoa. Such inconsistencies make community participation harder to navigate and understand, decrease community involvement and engagement, and inhibit capacity and capability building.
88. Nationwide inconsistencies we have witnessed through the Project and our research includes; DLCs requiring different notification processes, standing being declined to groups in some areas but not in others, standing of Tāngata Whenua groups being denied by some DLCs and granted by others, and online objection tools and information offered by some territorial authorities but not by others.
89. Our analysis of populations, demographics and off-licence figures revealed concerning **inconsistencies around the country**. Through our research, it can be inferred that a territorial authority's perception of alcohol harm and their understanding of a DLC's responsibilities; and whether it is primarily to minimise harm or to approve licences, seems the largest deciding factor in whether at-risk communities had a proliferation of off-licence outlets.
90. We recommend **s105 and s131 of the Act should include a licence criterion giving effect to Te Tiriti o Waitangi** and be further amended as follows:

*105 Criteria for issue of licences*

- (1) *In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must give effect to the following matters:*
  - (a) *the object of this Act; and*
  - (b) *any relevant local alcohol policy; and*
  - (c) *any national alcohol policy; and*
  - (d) *Te Tiriti o Waitangi and Tikanga Māori.*
- (2) *Further, in deciding whether to issue a licence, the licensing authority or the licensing committee concerned must give regard to the following matters:*
  - (a) *the suitability of the Applicant:*
  - (b) *the days on which and the hours during which the Applicant proposes to sell alcohol:*
  - (c) *the design and layout of any proposed premises:*
  - (d) *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:

- (e) 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:
  - (f) whether the current supply of alcohol in the locality is adequate;
  - (g) whether the licence will benefit the community;
  - (h) whether the Applicant has undertaken appropriate consultation with Tāngata Whenua and addressed concerns raised therein;
  - (i) 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:
  - (j) 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:
  - (k) whether the Applicant has appropriate systems, staff, and training to comply with the law;
  - (l) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.
- (3) The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

#### 131 Criteria for renewal

- (1) In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must give effect to the following matters:
  - (a) the object of this Act; and
  - (b) any relevant local alcohol policy; and
  - (c) any national alcohol policy; and
  - (d) Te Tiriti o Waitangi and Tikanga Māori.
- (2) Further, in deciding whether to renew a licence, the licensing authority or the licensing committee concerned must give regard to the following matters:
  - (a) the matters set out in paragraphs (a) to (h), (k), and (l) of section 105(1):
  - (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.
- (3) The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

**PROPOSED CHANGE TO SECTION 133, RENEWAL OF LICENCES WHERE RELEVANT LOCAL ALCOHOL POLICY EXISTS**

91. We support the new s133 and recommend **licence renewals must be consistent with LAPs and the NAP.**

*133 Renewal of licences where relevant local alcohol policy exists*

*A licensing committee or the licensing authority must—*

- (a) decline to renew a licence if it considers that renewing the licence would be inconsistent with any policy set out in the relevant local alcohol policy relating to a matter specified in section 77(1)(a) to (d):*
- (b) impose conditions on any licence it renews if it considers that the renewal of the licence, or the consequences of the renewal of the licence, without those conditions would be inconsistent with the relevant local alcohol policy.*

**RECOMMEND CHANGES TO SECTION 189 and 191, COMPOSITION OF LICENSING COMMITTEES AND QUORUM**

92. We recommend changes to s189, Composition of licensing committees.
93. Current DLC composition allows significant variation in procedure and qualification of DLC members. This opens decision making to the vulnerability of the bias and whims of DLC members. We have discussed and evidenced herein such inconsistencies and vulnerabilities through our statistics and what we have witnessed through the Project.
94. As evidenced, DLC members and their priorities have the power to affect entire communities by allowing and effectively entrenching a proliferation of alcohol outlets in highly vulnerable committees.
95. Given the significant risks and harms inherent with the supply of a toxic substance such as alcohol, we recommend **the elevation of Police and the Medical Officer of Health from reporting agencies to decision-making members of every DLC.**
96. Further, given the disproportionate harm suffered by Māori and the significant valuable expertise and experience Tāngata Whenua bring to decision making, it is fundamental that Tāngata Whenua are included in decision-making. We recommend a **Tāngata Whenua nominated representative be included as a decision-making member of every DLC that holds mana whenua to the Iwi/Hapū/rohe affect by the licence application.**

97. Given the legislative powers delegated to DLCs, we recommend **a qualified lawyer with at least seven years' experience<sup>34</sup> is also appointed as a decision-making member of each DLC** (being the only DLC member who is a qualified and practising lawyer). Although this may seem contrary, given we encourage and support removing the legal and formal nature of licensing hearings, we believe that given the risks and harms involved with alcohol, it is important DLCs fully comprehend their legal responsibilities and that due process is followed to ensure natural justice and the community voice is properly heard and weighted.
98. We recommend the Bill along with direction set through the NAP establishes with LGNZ (and perhaps the Law Society) **a LGA equivalent to the Resource Management Act 1991 Making Good Decisions Programme for territorial authority decision makers**. This certification should ensure territorial authority decision makers gain a thorough and tested expertise in:
- 98.1. LGA;
  - 98.2. LGOIMA;
  - 98.3. The Act;
  - 98.4. Commissions of Inquiry Act 1908 and where relevant Inquiries Act 2013;
  - 98.5. Chairing meetings and Commissions of Inquiry;
  - 98.6. Cross-examination of witnesses and evidence;
  - 98.7. Facilitation of hearing processes in a manner that avoids unnecessary formality;
  - 98.8. Incorporation of Tikanga Māori;
  - 98.9. Te Tiriti o Waitangi Partnership, responsibilities and requirements;
  - 98.10. National and international alcohol harm statistics and best practice harm minimisation strategies and alcohol regulation;

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<sup>34</sup> In alignment with section 222 of the Gambling Act 2003

- 98.11. Managing conflicts of interest; whether financial, personal or perceived;
- 98.12. Defining amenity and good order; and
- 98.13. Assessing the suitability of an Applicant and their comprehension of alcohol harm, and where appropriate their ability to operate in an area with particularly at-risk communities and customers.
99. We recommend the **territorial authority appointed member must hold such a Making Good Decisions LGA equivalent certification.**
100. It is necessary that DLCs are given appropriate resourcing for remuneration to allow DLC members to attend networking and professional development opportunities that support their capability as DLC members.
101. Through the Project, we have witnessed the lack of resourcing for DLCs and how it impacts their effectiveness. Members have missed out on networking and professional development opportunities, reporting agencies limit their opposition to only the most egregious applications given the costs and resources needed to defend appeals, and sometimes standing can be denied and hearings avoided to minimise costs as **licence application fees fail to cover hearing costs let alone inspections and ongoing monitoring. It is vital that DLC resourcing is reviewed with this Bill and supported on a national scale.**
102. In territories where there may be difficulties meeting these membership requirements, a **combined territorial authority approach could be used.** There are examples of this currently between Waimate, Mackenzie and Timaru, and Ōpotiki, Kawerau and Whakatāne.

#### *189 Composition of licensing committees*

- (1) *Each licensing committee consists of 5 members.*
- (2) *A territorial authority must appoint 1 member as the chairperson and that person must be a member of that territorial authority or a commissioner appointed to the licensing committee. That member must hold a current LGA Making Good Decisions certification.*
- (3) *The remaining 4 decision-making members of the committee will include:*
  - (a) *A Medical Officer of Health; and*
  - (b) *A Police Constable; and*
  - (c) *A Tāngata Whenua nominated representative holding mana whenua to the rohe affected by the licence application; and*

- (d) *A barrister and solicitor of the High Court of New Zealand with at least 7 years' legal experience that meets the requirements of rules made, under the Lawyers and Conveyancers Act 2006, for the purposes of section 30 of that Act.*
  - (4) *Where districts have difficulty recruiting suitably qualified candidates in their locality to be members of the committee, a territorial authority may partner with other territorial authorities to establish a shared joint licensing committee to meet membership requirements.*
  - (5) *A licensing committee may appoint a member to be deputy chairperson, and act in place of the chairperson if the chairperson is unable to act because of illness or absence from New Zealand, or for other sufficient reason.*
  - (6) *While acting in place of the chairperson, the deputy chairperson is a member of the committee and has all the powers and duties of the chairperson.*
  - (7) *No act done by the deputy chairperson serving as acting chairperson in the chairperson's absence, and no acts done by the committee while the deputy chairperson is so serving, can in any proceedings be questioned on the ground that the occasion for his or her so serving had not arisen or had ceased.*
  - (8) *For the purposes of subsection (2), a member of a territorial authority means an elected member of a territorial authority and, in relation to the Auckland Council, includes a member of the governing body (as defined in section 4 of the Local Government (Auckland Council) Act 2009) or a member of a local board established under section 10 of that Act.*
103. With the recommended changes to the composition of licensing committees, we also recommend changes to quorum requirements, which will serve to **increase the scrutiny of each licence application.**

#### 191 Quorum

- (1) *Except as provided in subsection (2), at any meeting of a licensing committee, the quorum necessary is 5 members.*
- (2) *At a meeting to consider and determine an application of a kind listed in subsection (3) where no objection has been filed and no matters of opposition have been raised, the quorum necessary is 1 member who must be the chairperson.*
- (3) *The applications are:*
  - (a) *an application for a manager's certificate; and*
  - (b) *an application for renewal of a manager's certificate.*

#### PROPOSED CHANGE TO SECTION 202(5), PROCEDURE

104. We recommend **Objectors be able to request they can attend hearings by remote access.**
105. Where hearings are held remotely in their entirety, **access for Objectors should be supported**, particularly where Objectors may not otherwise have the facilities necessary to attend the hearing remotely.

**PROPOSED CHANGES TO SECTION 203A, LICENSING COMMITTEES MUST ESTABLISH APPROPRIATE PROCEDURES**

- 106. We support s203A(2)(a), avoiding unnecessary formality.
- 107. **Tikanga Māori should be incorporated throughout DLC and ARLA procedures and be included at s203A(2). National direction and guidance is needed on this.**

**PROPOSED CHANGES TO SECTION 204, RIGHT OF CERTAIN PERSONS TO APPEAR IN PROCEEDINGS**

- 108. **If the composition of DLCs is changed in accordance with our recommendations, we support DLCs holding the right of cross-examination.**
- 109. Whilst we support the intention behind the removal of cross-examination, we are concerned, in the current process and composition of DLCs, this inhibits natural justice. We recommend that rather than the removal of cross-examination from all parties, one of the following options is implemented instead:
  - 109.1. **As in the Disputes Tribunal, legal representation is prohibited at DLC and ARLA hearings.** Each party maintains their right of cross-examination. Cross-examination is facilitated through the Chair, with the purpose of avoiding unnecessary formality and to avoid the current legalistic and adversarial nature of hearings, or;
  - 109.2. **DLCs use their powers as Commissions of Inquiry to appoint an authorised person, who is appropriately experienced and qualified, to investigate each application, examine evidence, summon witnesses, and facilitate cross-examination** of the parties in a non-adversarial manner (no other parties have the power of cross-examination).

**PROPOSED REPLACEMENT OF SECTION 205 WITH 205, 205A, 205B – CONTROL OF HEARINGS, EVIDENCE, DIRECTIONS AND REQUESTS**

- 110. It is important that s205 recognises that although Objector evidence and witness expertise may not meet traditional thresholds of formality and qualifications, their evidence and expertise is drawn from their experiences

within the community, their concerns, and the alcohol harm they have witnessed, and as such is equally, if not more, valuable.

111. Furthermore, Objectors will often not have the knowledge or resources to supply a formal brief of evidence and may assume their initial objection is their evidence – allowances need to be made within s205 for Objectors that wish to rely on their originating Objection as their evidence.

112. **DLCs need to be mindful of the disparities and limitations in resources between Objectors and Applicants and adjust their expectations** to ensure Objectors maintain their access to justice, right to be heard, and preserve natural justice.

113. We recommend s205A(1) be further amended as follows:

*A licensing committee or the licensing authority may direct the Applicant to provide evidence or briefs to all parties before the hearing.*

114. We recommend s205B(1)(c) be further amended as follows:

*direct any person who is presenting evidence or a brief to present it within a time limit and/or at a certain time.*

115. We recommend s205B(2) include a time limit for the provision and circulation of any requested further information.

116. We recommend s205B(4) be further amended as follows:

*A licensing committee or the licensing authority must provide a copy of any further information requested under subsection (2), and received before the hearing, to the Applicant and every other party.*

117. We recommend s205B(6) be further amended as follows:

*A licensing committee or the licensing authority must provide a copy of the further information or report to the Applicant and every other party.*

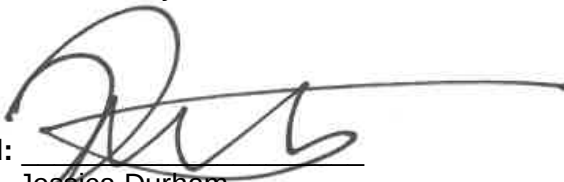
## **CONCLUSION**

118. We submit that any changes to the Act must keep the following objectives as the prime focus:

- 118.1. That recognition of Te Tiriti o Waitangi is fundamental to the equitable expression of the Act and must be given effect to through partnership in decision making and consultation.
- 118.2. That the object of the Act *to minimise harm caused by alcohol* needs to allow for equitable participation by all stakeholders to achieve that outcome, particularly Tāngata Whenua.
- 118.3. Nationally and internationally, we have the evidence needed to make meaningful policy and legislation change to managing alcohol and its impacts – this evidence needs to be at the forefront of decision making.
- 118.4. National direction and resourcing are needed for DLCs to ensure Te Tiriti o Waitangi is properly embedded, Tikanga Māori is incorporated throughout DLC processes, Tāngata Whenua are included in all licensing decisions, the community voice is heard, every application is properly scrutinised, DLC members are appropriately qualified, reporting is monitored, and density limits and restricting proliferation is prioritised.
- 118.5. The community voice is valued in licensing processes and supported through consistent procedures nationwide, extended notification requirements, support in understanding licensing processes, and empowering Objectors to be heard to advocate for their wellbeing.
- 118.6. LAP and NAP appeals are removed to ensure natural justice and democratic process is preserved and cannot be avoided or overturned through the application of inequitable industry resourcing.
- 118.7. Removing unnecessary formality and intimidating processes to ensure licensing procedures and forums are inviting and accessible to all communities and demographics.

**Dated:** 10 February 2023

**Signed:**



Jessica Durham  
National Coordinator – Community  
Community Law Centres o Aotearoa

## Annexure 1 – CLCA – Q4 2022 – Statistics compiled from Territorial Authority provided off-licence figures, 2018 Census demographics, Problem Gambling Foundation 2020 Gaming Machine reports

| Council                                | 2018 Census data |            |                  |                               |                                  | Q4 2022 Reporting                          |                                      |                        |                                            | DIA 2020 gaming machine data compiled by Problem Gambling Foundation |                           |                                               |                                  |                         |                                              | Notes                                                   |
|----------------------------------------|------------------|------------|------------------|-------------------------------|----------------------------------|--------------------------------------------|--------------------------------------|------------------------|--------------------------------------------|----------------------------------------------------------------------|---------------------------|-----------------------------------------------|----------------------------------|-------------------------|----------------------------------------------|---------------------------------------------------------|
|                                        | No. of Māori     | % of Māori | Total Population | No. of 9/10 deprivation index | % of population 9/10 deprivation | No. of Off-licences (provided by councils) | No. of Off-licences (ARLA reporting) | People per off-licence | % against national average of off-licences | No. of gaming machines                                               | People per gaming machine | % against national average of gaming machines | 2021 Total gaming machine losses | Take per gaming machine | Losses per person averaged across population |                                                         |
| Chatham Islands Council                | 453              | 69%        | 660              | 417                           | 63%                              | 4                                          | 0                                    | 165                    | 699%                                       | 51                                                                   | 13                        | 2463%                                         | \$ 1,700,000                     | \$ 33,333.33            | \$ 2,575.76                                  |                                                         |
| Wairoa District Council                | 5,301            | 63%        | 8,352            | 6,387                         | 76%                              | 10                                         | 4                                    | 835                    | 138%                                       | 119                                                                  | 70                        | 454%                                          | \$ 5,500,000                     | \$ 46,218.49            | \$ 658.52                                    |                                                         |
| Buller District Council                | 1,101            | 11%        | 9,579            | 4,014                         | 42%                              | 18                                         | 15                                   | 532                    | 217%                                       | 66                                                                   | 145                       | 220%                                          | \$ 3,600,000                     | \$ 54,545.45            | \$ 375.82                                    |                                                         |
| Far North District Council             | 30,903           | 47%        | 65,253           | 37,926                        | 58%                              | 81                                         | 52                                   | 806                    | 143%                                       | 273                                                                  | 239                       | 133%                                          | \$ 16,000,000                    | \$ 58,608.06            | \$ 245.20                                    |                                                         |
| Gisborne District Council              | 24,807           | 52%        | 47,529           | 23,442                        | 49%                              | 65                                         | 46                                   | 731                    | 158%                                       | 159                                                                  | 299                       | 107%                                          | \$ 11,000,000                    | \$ 69,182.39            | \$ 231.44                                    |                                                         |
| Ruapehu District Council               | 5,541            | 45%        | 12,309           | 5,661                         | 46%                              | 18                                         | 13                                   | 684                    | 169%                                       | 165                                                                  | 75                        | 427%                                          | \$ 8,800,000                     | \$ 53,333.33            | \$ 714.92                                    |                                                         |
| Waitomo District Council               | 4,092            | 44%        | 9,294            | 4,446                         | 48%                              | 12                                         | 9                                    | 775                    | 149%                                       | 140                                                                  | 66                        | 480%                                          | \$ 11,000,000                    | \$ 78,571.43            | \$ 1,183.56                                  |                                                         |
| Ōpōtiki District Council               | 5,742            | 62%        | 9,276            | 6,435                         | 69%                              | 8                                          | 6                                    | 1,160                  | 99%                                        | 81                                                                   | 115                       | 278%                                          | \$ 3,900,000                     | \$ 48,148.15            | \$ 420.44                                    |                                                         |
| Kawerau District Council               | 4,308            | 60%        | 7,140            | 6,348                         | 89%                              | 4                                          | 4                                    | 1,785                  | 65%                                        | 134                                                                  | 53                        | 598%                                          | \$ 6,500,000                     | \$ 48,507.46            | \$ 910.36                                    |                                                         |
| Kaipara District Council               | 5,442            | 24%        | 22,848           | 7,515                         | 33%                              | 30                                         | 28                                   | 762                    | 151%                                       | 45                                                                   | 508                       | 63%                                           | \$ 2,500,000                     | \$ 55,555.56            | \$ 109.42                                    |                                                         |
| Tararua District Council               | 4,281            | 24%        | 17,928           | 6,078                         | 34%                              | 21                                         | 21                                   | 854                    | 135%                                       | 165                                                                  | 109                       | 293%                                          | \$ 8,700,000                     | \$ 52,727.27            | \$ 485.27                                    |                                                         |
| Hastings District Council              | 22,470           | 28%        | 81,603           | 23,352                        | 29%                              | 112                                        | 99                                   | 729                    | 158%                                       | 281                                                                  | 290                       | 110%                                          | \$ 19,000,000                    | \$ 67,615.66            | \$ 232.83                                    | Off-licences possibly disproportionate due to vineyards |
| Thames-Coromandel District Council     | 5,460            | 18%        | 29,907           | 5,568                         | 19%                              | 58                                         | 47                                   | 516                    | 224%                                       | 248                                                                  | 121                       | 264%                                          | \$ 11,000,000                    | \$ 44,354.84            | \$ 367.81                                    |                                                         |
| Hauraki District Council               | 4,485            | 22%        | 19,998           | 8,013                         | 40%                              | 17                                         | 15                                   | 1,176                  | 98%                                        | 16                                                                   | 1,250                     | 26%                                           | \$ 610,000                       | \$ 38,125.00            | \$ 30.50                                     |                                                         |
| South Wairarapa District Council       | 1,482            | 14%        | 10,566           | 600                           | 6%                               | 63                                         | 21                                   | 168                    | 687%                                       | 52                                                                   | 203                       | 157%                                          | \$ 1,600,000                     | \$ 30,769.23            | \$ 151.43                                    | Off-licences possibly disproportionate due to vineyards |
| South Taranaki District Council        | 7,452            | 27%        | 27,540           | 10,203                        | 37%                              | 25                                         | 8                                    | 1,102                  | 105%                                       | 148                                                                  | 186                       | 171%                                          | \$ 8,600,000                     | \$ 58,108.11            | \$ 312.27                                    |                                                         |
| Grey District Council                  | 1,371            | 10%        | 13,341           | 3,678                         | 28%                              | 16                                         | 14                                   | 834                    | 138%                                       | 23                                                                   | 580                       | 55%                                           | \$ 720,000                       | \$ 31,304.35            | \$ 53.97                                     |                                                         |
| Whakatāne District Council             | 16,464           | 46%        | 35,712           | 15,048                        | 42%                              | 28                                         | 24                                   | 1,275                  | 90%                                        | 188                                                                  | 190                       | 168%                                          | \$ 12,000,000                    | \$ 63,829.79            | \$ 336.02                                    |                                                         |
| Stratford District Council             | 1,362            | 14%        | 9,480            | 2,358                         | 25%                              | 12                                         | 11                                   | 790                    | 146%                                       | ?                                                                    | ?                         | ?                                             | \$ -                             | ?                       | \$ -                                         |                                                         |
| Rotorua Lakes Council                  | 28,968           | 40%        | 71,904           | 29,355                        | 41%                              | 55                                         | 41                                   | 1,307                  | 88%                                        | 373                                                                  | 193                       | 165%                                          | \$ 24,000,000                    | \$ 64,343.16            | \$ 333.78                                    |                                                         |
| Horowhenua District Council            | 7,998            | 24%        | 33,252           | 14,982                        | 45%                              | 21                                         | 14                                   | 1,583                  | 73%                                        | 45                                                                   | 739                       | 43%                                           | \$ 2,100,000                     | \$ 46,666.67            | \$ 63.15                                     |                                                         |
| South Waikato District Council         | 8,268            | 34%        | 24,051           | 12,948                        | 54%                              | 12                                         | 5                                    | 2,004                  | 58%                                        | 160                                                                  | 150                       | 212%                                          | \$ 7,500,000                     | \$ 46,875.00            | \$ 311.84                                    |                                                         |
| Whanganui District Council             | 11,994           | 26%        | 45,324           | 20,988                        | 46%                              | 26                                         | 21                                   | 1,743                  | 66%                                        | 217                                                                  | 209                       | 153%                                          | \$ 11,000,000                    | \$ 50,691.24            | \$ 242.70                                    |                                                         |
| Marlborough District Council           | 6,411            | 14%        | 47,346           | 4,455                         | 9%                               | 130                                        | 15                                   | 364                    | 317%                                       | 201                                                                  | 236                       | 135%                                          | \$ 12,000,000                    | \$ 59,701.49            | \$ 253.45                                    | Off-licences possibly disproportionate due to vineyards |
| Rangitīkei District Council            | 3,879            | 26%        | 15,027           | 4,428                         | 29%                              | 13                                         | 12                                   | 1,156                  | 100%                                       | 166                                                                  | 91                        | 352%                                          | \$ 10,000,000                    | \$ 60,240.96            | \$ 665.47                                    |                                                         |
| Masterton District Council             | 5,436            | 21%        | 25,557           | 6,441                         | 25%                              | 25                                         | 25                                   | 1,022                  | 113%                                       | 57                                                                   | 448                       | 71%                                           | \$ 3,000,000                     | \$ 52,631.58            | \$ 117.38                                    | Off-licences possibly disproportionate due to vineyards |
| Porirua City Council                   | 12,546           | 22%        | 56,553           | 22,971                        | 41%                              | 34                                         | 26                                   | 1,663                  | 69%                                        | 166                                                                  | 341                       | 94%                                           | \$ 14,000,000                    | \$ 84,337.35            | \$ 247.56                                    |                                                         |
| Napier City Council                    | 14,043           | 23%        | 62,244           | 14,997                        | 24%                              | 63                                         | 51                                   | 988                    | 117%                                       | 81                                                                   | 768                       | 41%                                           | \$ 3,700,000                     | \$ 45,679.01            | \$ 59.44                                     |                                                         |
| Taupō District Council                 | 11,148           | 30%        | 37,188           | 8,304                         | 22%                              | 37                                         | 38                                   | 1,005                  | 115%                                       | 155                                                                  | 240                       | 133%                                          | \$ 9,600,000                     | \$ 61,935.48            | \$ 258.15                                    |                                                         |
| Waitaki District Council               | 1,866            | 8%         | 22,302           | 2,631                         | 12%                              | 41                                         | 1                                    | 544                    | 212%                                       | 139                                                                  | 160                       | 199%                                          | \$ 9,500,000                     | \$ 68,345.32            | \$ 425.97                                    |                                                         |
| Whangarei District Council             | 26,904           | 30%        | 91,005           | 31,245                        | 34%                              | 57                                         | 45                                   | 1,597                  | 72%                                        | 270                                                                  | 337                       | 95%                                           | \$ 18,000,000                    | \$ 66,666.67            | \$ 197.79                                    |                                                         |
| Clutha District Council                | 2,292            | 13%        | 17,670           | 2,685                         | 15%                              | 24                                         | 21                                   | 736                    | 157%                                       | 36                                                                   | 491                       | 65%                                           | \$ 2,000,000                     | \$ 55,555.56            | \$ 113.19                                    |                                                         |
| Waimate District Council               | 561              | 7%         | 7,827            | 1,752                         | 22%                              | 7                                          | 8                                    | 1,118                  | 103%                                       | 107                                                                  | 73                        | 436%                                          | \$ 3,600,000                     | \$ 33,644.86            | \$ 459.95                                    | Off-licences possibly disproportionate due to vineyards |
| Hurunui District Council               | 1,089            | 9%         | 12,564           | 561                           | 4%                               | 55                                         | 44                                   | 228                    | 505%                                       | 73                                                                   | 172                       | 185%                                          | \$ 2,200,000                     | \$ 30,136.99            | \$ 175.10                                    | Off-licences possibly disproportionate due to vineyards |
| Central Hawke's Bay District Council   | 3,351            | 24%        | 14,145           | 2,193                         | 16%                              | 17                                         | 8                                    | 832                    | 139%                                       | 116                                                                  | 122                       | 261%                                          | \$ 4,300,000                     | \$ 37,068.97            | \$ 303.99                                    |                                                         |
| Kaikōura District Council              | 750              | 19%        | 3,909            | 276                           | 7%                               | 9                                          | 5                                    | 434                    | 265%                                       | ?                                                                    | ?                         | ?                                             | \$ -                             | ?                       | \$ -                                         |                                                         |
| Auckland Council                       | 181,710          | 12%        | 1,571,751        | 333,549                       | 21%                              | 1,120                                      | 909                                  | 1,403                  | 82%                                        | 3,227                                                                | 487                       | 65%                                           | \$ 200,000,000                   | \$ 61,977.07            | \$ 127.25                                    |                                                         |
| Hamilton City Council                  | 38,238           | 24%        | 160,848          | 52,092                        | 32%                              | 75                                         | 27                                   | 2,145                  | 54%                                        | 392                                                                  | 410                       | 78%                                           | \$ 22,000,000                    | \$ 56,122.45            | \$ 136.78                                    |                                                         |
| Gore District Council                  | 1,587            | 13%        | 12,399           | 2,523                         | 20%                              | 9                                          | 0                                    | 1,378                  | 84%                                        | 72                                                                   | 172                       | 185%                                          | \$ 2,300,000                     | \$ 31,944.44            | \$ 185.50                                    |                                                         |
| (Lower) Hutt City Council              | 19,077           | 18%        | 104,517          | 25,938                        | 25%                              | 62                                         | 41                                   | 1,686                  | 68%                                        | 429                                                                  | 244                       | 131%                                          | \$ 29,000,000                    | \$ 67,599.07            | \$ 277.47                                    |                                                         |
| Waikato District Council               | 19,956           | 26%        | 75,642           | 16,785                        | 22%                              | 50                                         | 24                                   | 1,513                  | 76%                                        | 233                                                                  | 325                       | 98%                                           | \$ 8,200,000                     | \$ 35,193.13            | \$ 108.41                                    |                                                         |
| Tasman District Council                | 4,653            | 9%         | 52,344           | 3,714                         | 7%                               | 94                                         | 78                                   | 557                    | 207%                                       | 60                                                                   | 872                       | 37%                                           | \$ 2,500,000                     | \$ 41,666.67            | \$ 47.76                                     | Off-licences possibly disproportionate due to vineyards |
| New Plymouth District Council          | 14,412           | 18%        | 80,676           | 15,045                        | 19%                              | 55                                         | 52                                   | 1,467                  | 79%                                        | 294                                                                  | 274                       | 116%                                          | \$ 18,000,000                    | \$ 61,224.49            | \$ 223.11                                    |                                                         |
| Matamata-Piako District Council        | 5,661            | 16%        | 34,392           | 4,932                         | 14%                              | 30                                         | 0                                    | 1,146                  | 101%                                       | 148                                                                  | 232                       | 137%                                          | \$ 7,000,000                     | \$ 47,297.30            | \$ 203.54                                    |                                                         |
| Kāpiti Coast District Council          | 7,827            | 15%        | 53,676           | 3,858                         | 7%                               | 84                                         | 33                                   | 639                    | 180%                                       | 58                                                                   | 925                       | 34%                                           | \$ 2,500,000                     | \$ 43,103.45            | \$ 46.58                                     |                                                         |
| Invercargill City Council              | 9,423            | 17%        | 54,204           | 14,211                        | 26%                              | 23                                         | 22                                   | 2,357                  | 49%                                        | 226                                                                  | 240                       | 133%                                          | \$ 15,000,000                    | \$ 66,371.68            | \$ 276.73                                    |                                                         |
| Palmerston North City Council          | 15,873           | 19%        | 84,600           | 18,855                        | 22%                              | 42                                         | 24                                   | 2,014                  | 57%                                        | 295                                                                  | 287                       | 111%                                          | \$ 22,000,000                    | \$ 74,576.27            | \$ 260.05                                    |                                                         |
| Dunedin City Council                   | 11,925           | 9%         | 126,228          | 22,398                        | 18%                              | 78                                         | 63                                   | 1,618                  | 71%                                        | 391                                                                  | 323                       | 99%                                           | \$ 18,000,000                    | \$ 46,035.81            | \$ 142.60                                    |                                                         |
| Timaru District Council                | 4,236            | 9%         | 46,302           | 5,643                         | 12%                              | 40                                         | 36                                   | 1,158                  | 100%                                       | 289                                                                  | 160                       | 199%                                          | \$ 20,000,000                    | \$ 69,204.15            | \$ 431.95                                    |                                                         |
| Christchurch City Council              | 37,008           | 10%        | 369,042          | 53,058                        | 14%                              | 265                                        | 228                                  | 1,393                  | 83%                                        | 1,296                                                                | 285                       | 112%                                          | \$ 79,000,000                    | \$ 60,956.79            | \$ 214.07                                    |                                                         |
| Ōtorohanga District Council            | 3,312            | 33%        | 10,098           | 2,013                         | 20%                              | 5                                          | 4                                    | 2,020                  | 57%                                        | 58                                                                   | 174                       | 183%                                          | \$ 2,900,000                     | \$ 50,000.00            | \$ 287.19                                    |                                                         |
| Nelson City Council                    | 5,571            | 11%        | 50,883           | 6,987                         | 14%                              | 35                                         | 26                                   | 1,454                  | 79%                                        | 184                                                                  | 277                       | 115%                                          | \$ 9,800,000                     | \$ 53,260.87            | \$ 192.60                                    |                                                         |
| Tauranga City Council                  | 24,873           | 18%        | 136,668          | 17,943                        | 13%                              | 81                                         | 42                                   | 1,687                  | 68%                                        | 496                                                                  | 276                       | 116%                                          | \$ 37,000,000                    | \$ 74,596.77            | \$ 270.73                                    |                                                         |
| Western Bay of Plenty District Council | 9,654            | 19%        | 51,303           | 5,928                         | 12%                              | 34                                         | 9                                    | 1,509                  | 76%                                        | 108                                                                  | 475                       | 67%                                           | \$ 3,600,000                     | \$ 33,333.33            | \$ 70.17                                     |                                                         |
| Ashburton District Council             | 2,685            | 8%         | 33,417           | 2,616                         | 8%                               | 29                                         | 29                                   | 1,152                  | 100%                                       | 37                                                                   | 903                       | 35%                                           | \$ 1,100,000                     | \$ 29,729.73            | \$ 32.92                                     |                                                         |
| Manawatu District Council              | 5,091            | 17%        | 30,150           | 4,014                         | 13%                              | 14                                         | 10                                   | 2,154                  | 54%                                        | 64                                                                   | 471                       | 68%                                           | \$ 4,700,000                     | \$ 73,437.50            | \$ 155.89                                    |                                                         |
| Westland District Council              | 1,389            | 16%        | 8,646            | 189                           | 2%                               | 21                                         | 18                                   | 412                    | 280%                                       | 154                                                                  | 56                        | 568%                                          | \$ 6,700,000                     | \$ 43,506.49            | \$ 774.92                                    |                                                         |
| Waipā District Council                 | 8,079            | 15%        | 53,223           | 3,591                         | 7%                               | 34                                         | 15                                   | 1,565                  | 74%                                        | 228                                                                  | 233                       | 137%                                          | \$ 8,300,000                     | \$ 36,403.51            | \$ 155.95                                    |                                                         |
| Southland District Council             | 3,498            | 11%        | 30,852           | 954                           | 3%                               | 39                                         | 15                                   | 791                    | 146%                                       | 72                                                                   | 429                       | 74%                                           | \$ 2,500,000                     | \$ 34,722.22            | \$ 81.03                                     |                                                         |
| Upper Hutt City Council                | 7,140            | 16%        | 43,989           | 3,990                         | 9%                               | 18                                         | 18                                   | 2,444                  | 47%                                        | 165                                                                  | 267                       | 120%                                          | \$ 10,000,000                    | \$ 60,606.06            | \$ 227.33                                    |                                                         |
| Wellington City Council                | 18,138           | 9%         | 202,722          | 10,614                        | 5%                               | 122                                        | 99                                   | 1,662                  | 69%                                        | 607                                                                  | 334                       | 95%                                           | \$ 39,000,000                    | \$ 64,250.41            | \$ 192.38                                    |                                                         |
| Waimakariri District Council           | 5,052            | 8%         | 59,493           | 2,151                         | 4%                               | 43                                         | 23                                   | 1,384                  | 83%                                        | 91                                                                   | 654                       | 49%                                           | \$ 2,600,000                     | \$ 28,571.43            | \$ 43.70                                     | Off-licences possibly disproportionate due to vineyards |
| Selwyn District Council                | 4,842            | 8%         | 60,612           | 327                           | 1%                               | 44                                         | 33                                   | 1,378                  | 84%                                        | 60                                                                   | 1,010                     | 32%                                           | \$ 2,100,000                     | \$ 35,000.00            | \$ 34.65                                     | Off-licences possibly disproportionate due to vineyards |
| Carterton District Council             | 1,218            | 13%        | 9,195            | 0                             | 0%                               | 11                                         | 10                                   | 836                    | 138%                                       | 121                                                                  | 76                        | 419%                                          | \$ 4,600,000                     | \$ 38,016.53            | \$ 500.27                                    |                                                         |
| Central Otago District Council         | 1,851            | 9%         | 21,552           | 0                             | 0%                               | 130                                        | 114                                  | 166                    | 695%                                       | 2                                                                    | 10,776                    | 3%                                            | \$ 79,000                        | \$ 39,500.00            | \$ 3.67                                      | Off-licences possibly disproportionate due to vineyards |
| Mackenzie District Council             | 414              | 9%         | 4,854            | 0                             | 0%                               | 19                                         | 13                                   | 255                    | 451%                                       | 84                                                                   | 58                        | 552%                                          | \$ 3,500,000                     | \$ 41,666.67            | \$ 721.05                                    | Off-licences possibly disproportionate due to vineyards |
| Queenstown Lakes District Council      | 2,739            | 7%         | 39,156           | 0                             | 0%                               | 143                                        | 78                                   | 274                    | 421%                                       | 86                                                                   | 455                       | 70%                                           | \$ 2,800,000                     | \$ 32,558.14            | \$ 71.51                                     | Off-licences possibly disproportionate due to vineyards |
|                                        | 777,153          | 17%        | 4,699,617        | 992,619                       | 21%                              | 4,077                                      | 2,910                                | 1,153                  | 100%                                       | 14,743                                                               | 319                       | 100%                                          | \$ 856,009,000                   |                         | \$ 182.14                                    |                                                         |

Annexure 2 – CLCA –2022 – Statistics compiled Territorial Authority LGOIMA responses regarding new and renewals of on and off licences

| January - December 2022                                                                      |          | Off-licences |       |             |         |         |        |          |       |           |         |       | On-licences |         |             |         |         |         |          |        |           |        |       |
|----------------------------------------------------------------------------------------------|----------|--------------|-------|-------------|---------|---------|--------|----------|-------|-----------|---------|-------|-------------|---------|-------------|---------|---------|---------|----------|--------|-----------|--------|-------|
| Council                                                                                      |          | Approved     | % App | Objected to | % Obj   | Opposed | % Opp  | Declined | % Dec | Withdrawn | % WD    | TOTAL | Approved    | % App   | Objected to | % Obj   | Opposed | % Opp   | Declined | % Dec  | Withdrawn | % WD   | TOTAL |
| (Lower) Hutt City Council                                                                    | New      | 4            | 67%   | 2           | 33.33%  | 2       | 33.33% | 0        | 0.00% | 2         | 33.33%  | 6     | 11          | 100.00% | 1           | 9.09%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 11    |
|                                                                                              | Renewals | 22           | 96%   | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 1         | 4.35%   | 23    | 31          | 100.00% | 0           | 0.00%   | 1       | 3.23%   | 0        | 0.00%  | 0         | 0.00%  | 31    |
|                                                                                              |          | 26           | 100%  | 2           | 7.69%   | 2       | 7.69%  | 0        | 0.00% | 3         | 11.54%  | 29    | 42          | 100.00% | 1           | 2.38%   | 1       | 2.38%   | 0        | 0.00%  | 0         | 0.00%  | 42    |
| Ashburton District Council                                                                   | New      | 6            | 86%   | 2           | 28.57%  | 2       | 28.57% | 0        | 0.00% | 1         | 14.29%  | 7     | 7           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 7     |
|                                                                                              | Renewals | 5            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 5     | 14          | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 14    |
|                                                                                              |          | 11           | 100%  | 2           | 18.18%  | 2       | 18.18% | 0        | 0.00% | 1         | 9.09%   | 12    | 21          | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 21    |
| Auckland Council<br>NB: renewal outlier due to not being able to separate out new vs renewal | New      | 497          | 98%   | 8           | 1.58%   | 3       | 0.59%  | 2        | 0.40% | 7         | 1.38%   | 506   | 1102        | 99.10%  | 4           | 0.36%   | 3       | 0.27%   | 2        | 0.18%  | 8         | 0.72%  | 1112  |
|                                                                                              | Renewals | 0            | 0%    | 7           | 100.00% | 2       | 28.57% | 0        | 0.00% | 7         | 100.00% | 7     | 7           | 0.00%   | 4           | 33.33%  | 8       | 66.67%  | 2        | 16.67% | 10        | 83.33% | 12    |
|                                                                                              |          | 0            | 0%    | 7           | 100.00% | 2       | 28.57% | 0        | 0.00% | 7         | 100.00% | 7     | 7           | 0.00%   | 4           | 33.33%  | 8       | 66.67%  | 2        | 16.67% | 10        | 83.33% | 12    |
| Buller District Council                                                                      | New      | 2            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 2     | 5           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 5     |
|                                                                                              | Renewals | 7            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 7     | 11          | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 11    |
|                                                                                              |          | 9            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 9     | 16          | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 16    |
| Carterton District Council                                                                   | New      | 4            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 4     | 2           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 2     |
|                                                                                              | Renewals | 4            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 4     | 2           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 2     |
|                                                                                              |          | 8            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 8     | 4           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 4     |
| Central Hawke's Bay District Council                                                         | New      | 1            | 100%  | 1           | 100.00% | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 1     | 1           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 1     |
|                                                                                              | Renewals | 7            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 7     | 6           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 6     |
|                                                                                              |          | 8            | 100%  | 1           | 12.50%  | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 8     | 7           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 7     |
| Central Otago District Council                                                               | New      | 15           | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 15    | 7           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 7     |
|                                                                                              | Renewals | 26           | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 26    | 17          | 94.44%  | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 1         | 5.56%  | 18    |
|                                                                                              |          | 41           | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 41    | 24          | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 1         | 4.17%  | 25    |
| Chatham Islands Council                                                                      | New      | 0            | N/A   | 0           | N/A     | 0       | N/A    | 0        | N/A   | 0         | N/A     | 0     | 0           | N/A     | 0           | N/A     | 0       | N/A     | 0        | N/A    | 0         | N/A    | 0     |
|                                                                                              | Renewals | 0            | N/A   | 0           | N/A     | 0       | N/A    | 0        | N/A   | 0         | N/A     | 0     | 2           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 2     |
|                                                                                              |          | 0            | N/A   | 0           | N/A     | 0       | N/A    | 0        | N/A   | 0         | N/A     | 0     | 2           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 2     |
| Christchurch City Council                                                                    | New      | 42           | 79%   | 42          | 79.25%  | 5       | 9.43%  | 0        | 0.00% | 11        | 20.75%  | 53    | 90          | 98.90%  | 1           | 1.10%   | 1       | 1.10%   | 0        | 0.00%  | 1         | 1.10%  | 91    |
|                                                                                              | Renewals | 63           | 100%  | 63          | 100.00% | 15      | 23.81% | 0        | 0.00% | 0         | 0.00%   | 63    | 210         | 99.53%  | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 1         | 0.47%  | 211   |
|                                                                                              |          | 105          | 100%  | 105         | 100.00% | 20      | 19.05% | 0        | 0.00% | 0         | 0.00%   | 105   | 220         | 100.00% | 1           | 0.91%   | 1       | 0.91%   | 0        | 0.00%  | 2         | 0.91%  | 221   |
| Clutha District Council                                                                      | New      | 2            | 100%  | 1           | 50.00%  | 1       | 50.00% | 0        | 0.00% | 0         | 0.00%   | 2     | 1           | 100.00% | 1           | 100.00% | 1       | 100.00% | 0        | 0.00%  | 0         | 0.00%  | 1     |
|                                                                                              | Renewals | 4            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 4     | 5           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 5     |
|                                                                                              |          | 6            | 100%  | 1           | 16.67%  | 1       | 16.67% | 0        | 0.00% | 0         | 0.00%   | 6     | 6           | 100.00% | 1           | 100.00% | 1       | 100.00% | 0        | 0.00%  | 0         | 0.00%  | 6     |
| Dunedin City Council                                                                         | New      | 8            | 100%  | 0           | 0.00%   | 1       | 12.50% | 0        | 0.00% | 0         | 0.00%   | 8     | 20          | 95.24%  | 0           | 0.00%   | 1       | 4.76%   | 0        | 0.00%  | 1         | 4.76%  | 21    |
|                                                                                              | Renewals | 39           | 100%  | 0           | 0.00%   | 9       | 23.08% | 0        | 0.00% | 0         | 0.00%   | 39    | 83          | 98.81%  | 0           | 0.00%   | 1       | 1.19%   | 0        | 0.00%  | 1         | 1.19%  | 84    |
|                                                                                              |          | 47           | 100%  | 0           | 0.00%   | 10      | 21.28% | 0        | 0.00% | 0         | 0.00%   | 47    | 103         | 99.15%  | 0           | 0.00%   | 1       | 1.96%   | 0        | 0.00%  | 2         | 1.94%  | 105   |
| Far North District Council                                                                   | New      | 10           | 83%   | 1           | 8.33%   | 1       | 8.33%  | 1        | 8.33% | 1         | 8.33%   | 12    | 9           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 9     |
|                                                                                              | Renewals | 25           | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 25    | 34          | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 34    |
|                                                                                              |          | 35           | 100%  | 1           | 2.86%   | 1       | 2.86%  | 0        | 0.00% | 1         | 2.86%   | 36    | 43          | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 43    |
| Gisborne District Council                                                                    | New      | 7            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 7     | 5           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 5     |
|                                                                                              | Renewals | 19           | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 19    | 16          | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 16    |
|                                                                                              |          | 26           | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 26    | 21          | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 21    |
| Gore District Council                                                                        | New      | 0            | N/A   | 0           | N/A     | 0       | N/A    | 0        | N/A   | 0         | N/A     | 0     | 0           | N/A     | 0           | N/A     | 0       | N/A     | 0        | N/A    | 0         | N/A    | 0     |
|                                                                                              | Renewals | 6            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 6     | 2           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 2     |
|                                                                                              |          | 6            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 6     | 2           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 2     |
| Grey District Council                                                                        | New      | 0            | N/A   | 0           | N/A     | 0       | N/A    | 0        | N/A   | 0         | N/A     | 0     | 2           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 2     |
|                                                                                              | Renewals | 3            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 3     | 5           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 5     |
|                                                                                              |          | 3            | 100%  | 0           | 0.00%   | 0       | 0.00%  | 0        | 0.00% | 0         | 0.00%   | 3     | 5           | 100.00% | 0           | 0.00%   | 0       | 0.00%   | 0        | 0.00%  | 0         | 0.00%  | 5     |
| Hamilton City Council                                                                        | New      | 5            | 83%   | 1           | 16.67%  | 3       | 50.00% | 0        | 0.00% |           |         |       |             |         |             |         |         |         |          |        |           |        |       |