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**The Royal Australasian College of  
Physicians' submission to the  
Justice Committee on the Sale and  
Supply of Alcohol (Community  
Participation) Bill**

**Hui-tanguru 2023**

## Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback on the Sale and Supply of Alcohol (Community Participation) Bill (the Bill).

The RACP works across more than 40 medical specialties to educate, innovate and advocate for excellence in health and medical care. Working with our senior members, the RACP trains the next generation of specialists, while playing a lead role in developing world best practice models of care. We also draw on the skills of our members, to develop policies that promote a healthier society. By working together, our members advance the interest of our profession, our patients and the broader community. As a medical college involved in training and representing addiction medicine trainees and physicians, the RACP receives frequent input from the field, and is well placed to comment on the Bill.

Alcohol is Aotearoa New Zealand's most harmful drug, increasing the risk of over 200 diseases and health conditions (including seven cancers), injuries and road deaths, poor mental health, suicide and dementia, domestic, sexual, and family violence, child maltreatment, crime, and harm to unborn children through Fetal Alcohol Spectrum Disorder<sup>1</sup>. In 2020/21 one in every five adults aged 15+ years reported a hazardous drinking pattern<sup>2</sup>.

Persistent inequities in alcohol use and harm exist, particularly experienced by Māori, Pasifika and those living in the most socioeconomically deprived neighbourhoods. Death rates from alcohol among Māori are more than twice that of non-Māori<sup>3</sup>. Alcohol laws play a significant role in driving these inequities, including by failing to protect communities from high availability. The RACP observes the unjustly high concentration of alcohol outlets among Māori, Pasifika and low -income communities<sup>4,5</sup>.

## Background

The objective of the Sale and Supply of Alcohol Act 2012 (the Act) to enable community-level decision making for alcohol licensing decisions (as part of a wider goal to reducing alcohol related harm) has been far from realised. Recently released research<sup>17,18</sup> and other evidence from objectors<sup>6,7</sup> demonstrates that communities struggle to influence licensing decisions, contributing to a proliferation of licensed premises where they are not wanted. This has been particularly stark in

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<sup>1</sup> Alcohol Healthwatch. Evidence-based alcohol policies: Building a fairer and healthier future for Aotearoa New Zealand. [Internet]. Auckland: Alcohol Healthwatch, 2020. Available from: [Evidence-based alcohol policies.indd \(ahw.org.nz\)](#) Downloaded on 24 January 2023.

<sup>2</sup> Ministry of Health. Annual Update of Key Results 2020/21: New Zealand Health Survey. Wellington, N.Z: Ministry of Health, 2021. Available from: [www.health.govt.nz/publication/annual-update-key-results-2020-21-new-zealand-health-survey](http://www.health.govt.nz/publication/annual-update-key-results-2020-21-new-zealand-health-survey). Downloaded on 24 January 2023.

<sup>3</sup> Connor J, Kydd R, Shield K, Rehm J. The burden of disease and injury attributable to alcohol in New Zealanders under 80 years of age: Marked disparities by ethnicity and sex. *New Zealand Medical Journal* 2015; 128: 15–28. Available from: [The burden of disease and injury attributable to alcohol in New Zealanders under 80 years of age: marked disparities by ethnicity and sex - PubMed \(nih.gov\)](#) Downloaded on 25 January 2023.

<sup>4</sup> Hobbs M, Marek L, Wiki J, et al. Close proximity to alcohol outlets is associated with increased crime and hazardous drinking: Pooled nationally representative data from New Zealand. *Health & Place* 2020; 65: 102397. Available from: [Close proximity to alcohol outlets is associated with increased crime and hazardous drinking: Pooled nationally representative data from New Zealand - ScienceDirect](#) Downloaded on 25 January 2023.

<sup>5</sup> Ayuka F, Barnett R, Pearce J. Neighbourhood availability of alcohol outlets and hazardous alcohol consumption in New Zealand. *Health & Place* 2014; 1: 186–99 Available from: [Neighbourhood availability of alcohol outlets and hazardous alcohol consumption in New Zealand - PubMed \(nih.gov\)](#) Downloaded on 25 January 2023.

<sup>6</sup> Guest writer. The Alcohol licensing system has failed communities for years it has to change. [Internet]. The Spinoff, November 1, 2022. Available from: [The alcohol licensing system has failed communities for years. It has to change | The Spinoff](#) Downloaded on 17 January 2023.

<sup>7</sup> Jackson, N. Communities struggle against alcohol industry. [Internet]. University of Auckland, 11 July 2019. Available from: [Communities struggle against alcohol industry - The University of Auckland](#) Downloaded on 17 January 2023.

areas of socio-economic deprivation in Aotearoa New Zealand. Community members continue to take time to object to liquor licence applications in their neighbourhoods, rarely achieving success.

Failure to hear communities' voices has not gone unnoticed by the Alcohol Regulatory and Licensing Authority (ALRA). In reports from 2019 onwards the ALRA observed that the number of refusals for applications from DLCs for new licences, licence renewals and managers' certificates was very low compared to the number of applications being granted<sup>8,9,10</sup>. In 2022 the ALRA stated "we note from DLC reports and ARLA hearings throughout New Zealand, the increasing involvement of community groups in opposition to the granting and renewal of licences. These groups seem to consider they have not gained the voice they believed they were given with the statutory authorisation of Local Alcohol Policies"<sup>11</sup>.

This Bill implements the first phase of alcohol reforms in and aims to give power back to communities to influence local alcohol regulation. Proposed changes address three key persistent issues identified as hampering attempts by communities to influence availability. These issues include who can object to licensing applications (standing); how licensing hearings are run and the ability to adopt and apply local alcohol policies (LAPs). If fully implemented, the proposed legislation will ensure:

- any person may object to the grant of a licence, whether as an individual or representative of a group or organisation,
- hearings are conducted without unnecessary formality, do not permit those who appear at hearings to question parties, do not permit cross-examination, and can be conducted by telephone, audio-visual link etc where appropriate and the facilities are available
- provisional LAPs may not be appealed and District Licencing Committees (DLCs) have discretion to consider LAPs in renewal of licence applications.

## Overall Position

The RACP supports the proposals in the Bill which can be seen as strengthening democracy and increasing communities' opportunity and voice in protecting their whānau from the multiple adverse impacts of alcohol. This Bill puts people before profit and paves the way for more meaningful and fair contribution of community preferences around the availability and proliferation of alcohol outlets.

The proposals align with calls from RACP for restrictions on alcohol availability including laws controlling outlet density<sup>12</sup>, a stance based on evidence clearly showing the link between density of

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<sup>8</sup> Alcohol Regulatory and Licensing Authority (ALRA). Report of the Alcohol Regulatory and Licensing Authority for the 12 months ended 30 June 2019 [Internet]. Wellington: ALRA, 2019. Available from: [d73ab2acc835b7dee35797f8eab3a1685972c4a0 \(www.parliament.nz\)](https://www.parliament.nz/d73ab2acc835b7dee35797f8eab3a1685972c4a0)

<sup>9</sup> Alcohol Regulatory and Licensing Authority (ALRA). Report of the Alcohol Regulatory and Licensing Authority for the 12 months ended 30 June 2020. [Internet]. Wellington: ALRA, 2020. Available from: [1618150da0f0fe3400aae15c130be68f47f82008 \(www.parliament.nz\)](https://www.parliament.nz/1618150da0f0fe3400aae15c130be68f47f82008) Downloaded on 17 January 2023.

<sup>10</sup> Alcohol Regulatory and Licensing Authority (ALRA). Report of the Alcohol Regulatory and Licensing Authority for the 12 months ended 30 June 2021. [Internet]. Wellington: ALRA, 2021. Available from: [8fb06a4b1032cc0d1d6842a9d12250775f5d78d3 \(www.parliament.nz\)](https://www.parliament.nz/8fb06a4b1032cc0d1d6842a9d12250775f5d78d3) Downloaded on 17 January 2023.

<sup>11</sup>. Alcohol Regulatory and Licensing Authority (ALRA). Report of the Alcohol Regulatory and Licensing Authority for the 12 months ended 30 June 2022. [Internet]. Wellington: ALRA, 2020. Available from: [ea3c2ed013bb76d027ecfa84e569cba33a568c48 \(www.parliament.nz\)](https://www.parliament.nz/ea3c2ed013bb76d027ecfa84e569cba33a568c48) Downloaded on 17 January 2023.

<sup>12</sup> Royal Australasian College of Physicians and Royal Australian and New Zealand College of Psychiatrists. Alcohol Policy, 2016. [Internet]. Sydney: Royal Australasian College of Physicians (RACP) and Melbourne: Royal Australian and New Zealand College of Psychiatrists (RANZCP), 2016. Available from: [pa-racp-ranzcp-alcohol-policy.pdf](https://www.racp-ranzcp-alcohol-policy.pdf) Downloaded on 11 January 2023.

alcohol outlets and alcohol-related harm in Aotearoa New Zealand<sup>13,14</sup>. RACP's #MakeItTheNorm campaign also calls for the government to make whānau wellbeing the norm through supporting local authorities and communities work to reduce alcohol off-licences<sup>15</sup>.

As outlined in RACP's [Indigenous Strategic Framework](#) a requirement for the reversal of the negative effects of colonisation for indigenous peoples (such as alcohol-related harm) is self-determination<sup>16</sup>. However, in the current regulatory environment Māori have struggled to have their voices heard against powerful alcohol industry interests. Current alcohol licensing processes have also neglected to compel and resource local government to give regard to Te Tiriti o Waitangi<sup>17,18</sup>. At the same time, whānau and communities continue to shoulder the impacts of this harm. This Bill is in the spirit of self-determination but will need to make commitments to Te Tiriti more explicit to ensure success.

The RACP also wishes to highlight unintended consequences of this Bill. Increased community participation in alcohol licensing may not necessarily be in the interests of harm reduction. There will be diverse community interests in the local alcohol environment, with many commercial pressures in communities possibly opting to undermine progress, for example by electing to have many licensed venues. Another perverse consequence may be that people from one community with stricter controls will spill into another area.

The RACP also cautions that any future legislation should sit alongside additional support for communities with least capacity to engage but facing more burden of alcohol-related harms, to avoid exacerbating existing inequalities. We draw your attention to the concept of [Minimum Unit Pricing \(MUP\)](#), a policy to set higher prices on the cheapest and strongest drinks resulting in decreased alcohol-related assaults and emergency department presentations in the Northern Territory and decreased harmful consumption in other jurisdictions internationally. RACP has advocated for a minimum unit price on alcohol in all states and territories in Australia<sup>19</sup>.

The RACP suggests that any future legislation availability should be complemented by appropriate treatment services, available nation-wide and targeted to meet the specific needs of risky drinkers<sup>19</sup>, harnessing opportunities for co-design by Māori, for Māori, as Māori. We also advocate for the provision of effective information about alcohol harm within the community, especially, but not only during pregnancy.

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<sup>13</sup> Cameron M, Cochrane W, Livingston M. The relationship between alcohol outlets and harms: A spatial panel analysis for New Zealand, 2007-2014. Wellington: Health Promotion Agency, 2016. Available from: [The relationship between alcohol outlets and harm.pdf \(hpa.org.nz\)](#) Downloaded on 11 January 2023.

<sup>14</sup> Connor J, Kypri K, Bell M, Cousins K. Alcohol outlet density, levels of drinking and alcohol-related harm in New Zealand: a national study. *J Epidemiol Community Health*. 2011; 65 (10):841-6. Available from: [Alcohol outlet density, levels of drinking and alcohol-related harm in New Zealand: a national study - PubMed \(nih.gov\)](#) Downloaded on 11 January 2023.

<sup>15</sup> Royal Australasian College of Physicians. Make It The Norm. Equity through the social determinants of health. [Internet] Wellington: Royal Australasian College of Physicians, 2017. Available from [https://www.racp.edu.au/docs/default-source/policy-and-adv/aotearoa-new-zealand/make-it-the-norm-equity-through-the-social-determinants-of-health.pdf?sfvrsn=10ea011a\\_8](https://www.racp.edu.au/docs/default-source/policy-and-adv/aotearoa-new-zealand/make-it-the-norm-equity-through-the-social-determinants-of-health.pdf?sfvrsn=10ea011a_8) Downloaded on 11 January 2023.

<sup>16</sup> Royal Australasian College of Physicians (RACP). Indigenous Strategic Framework 2018-2028 The Royal Australasian College of Physicians (RACP) Australia. [Internet]. RACP, 2018. Available from: [indigenous-strategic-framework.pdf \(racp.edu.au\)](#) Downloaded on 31 January 2023.

<sup>17</sup> Auckland Regional Public Health Service. Is the community's voice being heard? [Internet]. Auckland Regional Public Health Service; 2019. Available from: [https://www.arphs.health.nz/assets/Uploads/Resources/Alcohol/Is-the-communitys-voice-being-heard\\_alcohol-licensing-applications\\_FINAL.pdf](https://www.arphs.health.nz/assets/Uploads/Resources/Alcohol/Is-the-communitys-voice-being-heard_alcohol-licensing-applications_FINAL.pdf) Downloaded on 11 January 2023.

<sup>18</sup> Randerson, S., Gordon, L., Casswell, S., Lin, J., Borell, B., Rychert, M., & Huckle, T. (2022) "I feel it's unsafe to walk": Impacts of alcohol supply on public space in eight neighbourhoods, and residents' input to alcohol licensing decisions. Wellington: Te Whatu Ora. Available from: [Inclusivity report FINAL.pdf \(hpa.org.nz\)](#) Downloaded on 11 January 2023.

<sup>19</sup> Royal Australasian College of Physicians (RACP). Factsheet on minimum unit pricing on alcohol.[Internet]. Available from: [racp-factsheet-on-minimum-unit-pricing-on-alcohol.pdf](#) Downloaded on 31 January 2023.

## Key points

### Greater opportunity for the public to object to licence applications

The RACP supports the proposal (under Clause 10 of the Bill) to allow any person to object to a licence application, whether as an individual or as a representative of a group or an organisation. Currently, section 102 of [the Act](#) requires potential objectors to show that they have a greater interest in the liquor licence application than the public generally. This has been interpreted narrowly and permits only a small number of people to object. Objectors have been excluded from licence hearings if their initial written objection does not show this “greater interest”, for example by living or working near the premises<sup>18</sup>. The RACP anticipates that broadening the eligibility criteria will allow more chance for objectors with an interest in addressing alcohol-related harm to participate in decision making in the number, type and distribution of alcohol outlets.

### Changes to how licensing hearings are run

The RACP also endorses proposals to reduce the litigious nature of licensing hearings. Currently, community participation involves formal and adversarial hearings, which includes cross-examination. Non-professional, poorly resourced participants are disempowered and disadvantaged to advocate for the wellbeing of their own communities<sup>20</sup>. This process has been shown to work against communities fronting the DLCs, especially those that are vulnerable. Whānau stories and concerns about addiction and fallout are given little weight<sup>21</sup>. The RACP therefore supports the Bill’s intent to ensure hearings are conducted without unnecessary formality, do not permit those who appear at hearings to question parties, do not permit cross-examination, and can be conducted by telephone, audio-visual link etc where appropriate and the facilities are available.

### Changes to ability to adopt and apply Local Alcohol Policies (LAPs)

The RACP also observes that current local alcohol policy process is legalistic and ineffective. The Act introduced provisions enabling Territorial Authorities to develop a Local Area Policy (LAP) through public consultation to limit outlet locations and density and set alternative maximum hours of trade, with the overall aim of improving community input into licensing decisions and reducing alcohol harm<sup>22</sup>. However, appeals against LAPs have delayed and prevented their adoption, meaning they are not applied to licensing decisions. At May 2022, 41 of the 67 Councils had an adopted LAP. Councils have faced relentless challenges to their proposed policies from large alcohol retailers especially supermarkets. Of all the draft policies, the two supermarket chains appealed 86% of them and bottle stores have appealed 72%. There is currently no LAP in many of New Zealand’s largest cities – Auckland, Hamilton, Wellington and Christchurch. Auckland Council’s LAP has been in appeals for seven years, costing the Council over \$1 million in legal fees alone. At

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<sup>20</sup> The Treasury, New Zealand Government. Regulatory Impact Assessment: Supplementary Analysis Report: Sale and Supply of Alcohol (Community Participation) Amendment Bill. [Internet]. Wellington: The Treasury, 17 November 2022. Available from: [Regulatory Impact Assessment: Supplementary Analysis Report: Sale and Supply of Alcohol \(Community Participation\) Amendment Bill \(treasury.govt.nz\)](#) Downloaded on 24 January 2023.

<sup>21</sup> New Zealand Herald. Alcohol harm: Māori 'up against it' fighting liquor store licensing in local communities. [Internet]. New Zealand Herald, 12 July 2021. Available from: [Alcohol harm: Māori 'up against it' fighting liquor store licensing in local communities - NZ Herald](#) Downloaded on 24 January 2023.

<sup>22</sup> Randerson, S, Casswell S, Huckle T. Changes in New Zealand’s alcohol environment following implementation of the Sale and Supply of Alcohol Act (2012). [Internet]. NZMJ 2018;131 (1476): 14-23. Available from [NZMJ 1476.indd \(website-files.com\)](#) Downloaded on 24 January 2023.

the same time, communities suffer ongoing alcohol harm without any protections in place<sup>23</sup>. Additionally, DLCs must not take any inconsistency between LAPs and the renewal of licences into account when deciding whether to approve applications. This means decisions are less likely to reflect the relevant LAPs.

The RACP is of the view that any steps to protect the LAP process from the influence of commercial conflicts of interest are desirable to reduce alcohol-related harm. The RACP supports proposals to both remove the ability for anyone to appeal a Council local alcohol policy and to ensure licensing committees have the discretion to consider LAPs in renewal of licence applications. These provisions will remove the ability for alcohol retailers to stymie community wishes and put people and organisations serving communities at the forefront of decisions around how alcohol is sold in neighbourhoods.

## Inadequate Commitment to Te Tiriti o Waitangi

The intent of regulation in the alcohol space must be to achieve health equity between Māori and non-Māori. However, the current regulatory regime for enabling Māori to meaningfully participate in decision making around alcohol licensing decisions in communities is woefully inadequate. Existing legislation requires considerable change to become Tiriti-consistent and currently risks widening existing health inequalities between Māori and non-Māori<sup>24</sup>. This is despite the fact that Māori experience unequal exposure to, and harms from, alcohol risk environments in Aotearoa New Zealand, including higher exposure to alcohol outlets when living in deprived areas<sup>4,5</sup>.

The design of the currently licensing system discourages Māori from participating in licensing decisions and hearings. There is no recognition of either treaty text in the Act and current licensing processes do not support active partnership and engagement with Māori interests in licence decisions. Research has shown licence decisions and hearings have not recognised elements of Māori culture protected under Te Tiriti such as whakapapa (ancestral connections) or being a māngai kōrero (authoritative spokesperson) when assessing the right to give evidence. Māori objectors have described the legalistic nature of the hearing environment as an entirely inappropriate way to engage and confirm this has excluded many from participating<sup>18,25</sup>.

The RACP suggests more explicit reference is made to Te Tiriti within the draft legislation, including pathways for guaranteeing shared decision-making with Māori in licensing decisions that affect Māori communities. We recommend the Bill refers to Te Tiriti principles and make explicit processes specific to engaging with Māori in regulating the sale and supply of alcohol. As outlined in RACP's [Make it the Norm](#), it is imperative to make and sustain the changes urgently needed to realise the promises of Te Tiriti - equity, active protection and tino rangatiratanga<sup>26</sup>. We call for alcohol legislation built on a Tiriti foundation with Te Ao Māori and mātauranga Māori at the forefront to truly affect the wellbeing of current and future generations.

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<sup>23</sup> Alcohol Healthwatch. Factsheet: The Sale and Supply of Alcohol (Harm Minimisation) Bill. [Internet. Alcohol Healthwatch, May 2022. Available from [Factsheet Alcohol Harm Minimisation Bill 2022.pdf \(ahw.org.nz\)](#) Downloaded on 24 January 2023.

<sup>24</sup> Kyrpi K, Maclennan B, Brausch S, Wyeth E, Connor J. Did New Zealand's alcohol legislation achieve its object of facilitating public input? Qualitative study of Māori communities. [Internet]. Drug and Alcohol Review 2019;8 (4): 331-338. Available from: [Did New Zealand's new alcohol legislation achieve its object of facilitating public input? Qualitative study of Māori communities - Kyrpi - 2019 - Drug and Alcohol Review - Wiley Online Library](#) Downloaded on 24 January 2023.

<sup>25</sup> Maynard, K. (2022). Te Tiriti o Waitangi and alcohol law. Wellington, NZ: Te Hīringa Hauora | Health Promotion Agency. [Internet]. Available from: [Te Tiriti o Waitangi and alcohol law.pdf \(hpa.org.nz\)](#) Downloaded on 17 January 2023.

<sup>26</sup> Royal Australasian College of Physicians. Make It The Norm. [Internet]. Wellington: Royal Australasian College of Physicians [Make It The Norm | Policy and Advocacy \(racp.edu.au\)](#) Downloaded on 17 January 2023.

## Conclusion

The RACP thanks the Justice Committee for the opportunity to provide feedback on this consultation. To discuss this submission further, please contact the NZ Policy and Advocacy Unit at [policy@racp.org.nz](mailto:policy@racp.org.nz).

Nāku noa, nā,



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