Mental Health Foundation OF NEW ZEALAND
mauri tū, mauri ora

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Justice Committee
Parliament Buildings
Wellington

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Tēnā koutou Justice Committee

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

Tuia te rangi e tū nei
Tuia te papa e takoto nei
Tuia i te here tangata
Tihei mauri ora
He hōnore, he korōria ki te atua ki te runga rawa
He whakaaro maha ki a rātou kua haere ki te wāhi ngaro
Rau rangatira mā, anei ngā whakaaro me ngā kōrero nā Te Tūāpapa Hauora Hinengaro

Introduction

Thank you for the opportunity to comment on the Sale and Supply of Alcohol (Community Participation) Amendment Bill (the Bill).

The Mental Health Foundation of New Zealand (the MHF) supports this Bill as a mechanism to strengthen community input into the local sale of alcohol, and we strongly support a full-scale review of the Sale and Supply of Alcohol Act 2012 (the Act) in future. We view this Bill as an interim step toward stronger alcohol regulation, ahead of more comprehensive law reform as recommended in the report

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of the Government Inquiry into Mental Health and Addiction, *He Ara Oranga*,[i] which the MHF considers to provide the solutions for transformational reform of the mental health, substance use and addiction system, and signalled by government in October 2022. We welcome the next phase of reform as an opportunity to fully embed Te Tiriti o Waitangi, consider the full catalogue of evidenced-based policy interventions available to prevent and minimise harm from alcohol, and enhance mechanisms to provide clear cross-sector leadership and coordination within central government for policy in relation to alcohol and other drugs.[ii]

Our brief comments and recommendations for the Bill are provided below. For a more detailed and well-informed perspective, we recommend the Justice Committee refer to the submissions of expert advocates such as Hāpai te Hauora and Alcohol Healthwatch, as they hold significant knowledge and expertise on alcohol-related harm, as well as first-hand experience of the specific processes referred to in this Amendment Bill.

Summary of recommendations

1. Refer to Te Tiriti o Waitangi explicitly in a dedicated clause and throughout the Bill.
2. Embed stronger provisions for Māori and wider community participation and representation in local alcohol policy (LAP) development and licensing hearing processes.
3. Strengthen the Bill to ensure LAPs are as effective as possible, engaging with alcohol harm experts to do so. We suggest the Committee consider making LAPs mandatory, expanding the circumstances LAPs must give regard to (such as the socioeconomic profile of an area), and extending the mandate of LAPs to include local conditions on pricing, advertising and further controls on availability.

[i] At recommendation 26: Take a stricter regulatory approach to the sale and supply of alcohol, informed by the recommendations of the 2010 Law Commission review, the 2014 Ministerial Forum on Alcohol Advertising and Sponsorship, and the 2014 Ministry of Justice report on alcohol pricing (government response: further consideration needed).

[ii] As advised by recommendation 29 of *He Ara Oranga* (accepted in full by government).

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4. Maintain amendments which ensure licensing objections and hearings are accessible to community.

Harmful alcohol use is linked to poor mental wellbeing and suicide

Harmful alcohol use has significant and widespread impacts on individual health and society, contributing to avoidable death, disease and injury across the life course,[1] increasing the risk of violence and road accidents, and negatively affecting employment and educational outcomes and personal relationships.[2] These impacts affect not only those who consume alcohol but also unborn babies, dependent children, whānau and communities. Almost 1 in 5 adults drink in a way that risks physical or mental harm in New Zealand,[3] with harms falling disproportionately on Māori, Pacific peoples, poorer communities, and people living with mental distress.[4]

The link between alcohol and mental health and wellbeing is multifaceted and reciprocal. Hazardous drinking and mental distress have common social determinants and risk factors, such as isolation, poverty, trauma, stigma, and stress. The impact of alcohol on the brain, body, and behaviour can directly and indirectly contribute to poorer mental wellbeing and increased mental distress, which can in turn create a cycle of harmful use when people use alcohol to cope with distress. Overall, the risk of mental distress is almost four times higher for people who drink heavily, and one in three people who report problems with alcohol also experience mental distress.[5]

Alcohol use is also a significant and persistent risk factor for suicide.[6] It is linked to an increased likelihood of suicide attempt (particularly at high levels of consumption),[7] is associated with more lethal means,[8] and can potentiate the effects of other drugs consumed in overdose.[9] Acute alcohol use is identified in almost 27 percent of suicide deaths in Aotearoa (higher than the global estimate of 19 percent), and population groups that already have disproportionately higher suicide rates, including younger New Zealanders and Māori, have a higher proportion of suicide deaths involving alcohol.[10] Problems with alcohol or drugs are the second most common mental health and addiction issue (after depression) in those who die by suicide in New Zealand[11] and internationally.[12] Lived experience evidence tells us that recent interpersonal loss including bereavement from suicide, combined with alcohol use, can also increase suicide risk.

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Reducing the availability of alcohol can prevent harm

The MHF supports evidence-based policy interventions to prevent and minimise these substantial and extensive harms. A suite of available policy options and evidence for their effectiveness is provided in reports such as the 2010 Law Commission review of alcohol regulation, the 2014 Ministerial Forum on Alcohol Advertising and Sponsorship, the 2014 Ministry of Justice report on alcohol pricing, the World Health Organization's *'Best buys' and other recommended interventions for the prevention and control of noncommunicable diseases* (2017), and the book *Alcohol: No Ordinary Commodity* (third edition, 2023).

Controlling the physical availability of alcohol (e.g., through reduced hours of sale, fewer retailers, or a minimum purchase age) is one such strategy to reduce its harmful use in the population. There is strong evidence that alcohol-related harm increases when alcohol is readily available and decreases when availability is restricted.[13] It was claimed the Sale and Supply of Alcohol Act 2012 would create opportunities for communities to influence availability by setting local conditions for alcohol licences, enshrined in an LAP.[iii] In effect, however, LAPs have been difficult to adopt and have lacked the force to give effect to community preferences in local licensing decisions.[14]

Recommendations for the Bill

1. Refer to Te Tiriti o Waitangi explicitly in a dedicated clause and throughout

The MHF recommends the Bill explicitly refer to Te Tiriti o Waitangi, in a dedicated clause and throughout, to ensure the legislation is administered by district licensing committees and the Alcohol Regulatory and Licensing Authority in a manner consistent with Te Tiriti o Waitangi. The principal Act does not reference Te Tiriti o Waitangi, nor has it guaranteed Māori participation in alcohol licensing decision

[iii] E.g., in the Sale and Supply of Alcohol Bill's third reading.

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making, and has so far failed to reduce the inequitable burden of alcohol-related harm borne by tangata whenua.[iv]

2. Embed stronger provisions for Māori and wider community participation and representation

The MHF recommends the Bill include additional provisions to support Māori and wider community participation in the LAP and licensing hearing processes. These provisions should include:

- Support for tikanga Māori and te reo Māori in hearings, such as permission to recite karakia, speak, and present evidence in Māori, the provision of translators or interpreters, and training for district licensing committee and Alcohol Regulatory and Licensing Authority staff.
- Māori and mana whenua representation on district licensing committees and the Alcohol Regulatory Licensing Authority. Tangata whenua should have a role in alcohol decision making to give effect to the articles Kāwanatanga, Rangitiratanga and Ōritetanga.

3. Strengthen the Bill to ensure LAPs are as effective as possible, and engage with alcohol harm experts (suggestions are listed below)

The MHF acknowledges the potential of LAPs to regulate alcohol availability in line with the unique circumstances (including social and health status) and aspirations of local communities. However, in practice they have not proved an effective means of reducing the number of alcohol outlets or even in preventing the grant of new licences. LAPs are not widely adopted by councils,[v] either because they are not required, or because a provisional LAP has been indefinitely tied up or abandoned

[iv] E.g., Māori are 1.89 times more likely than non-Māori to drink hazardously (Ministry of Health, 2022), 44 percent more Māori die of alcohol-attributable causes than non-Māori (Connor et al., 2015), and Māori are more likely to die by suicide involving alcohol (Crossin et al., 2022). In addition to experiences of discrimination (Winter et al., 2019) and trauma (Reid et al., 2014), this is expected to be linked to higher availability of alcohol in communities with more Māori residents (Ayuka et al., 2014).

[v] E.g., in 2017, only 24 percent of New Zealanders resided in a district with an adopted LAP (Jackson & Robertson, 2017).

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in the appeals process[vi] at considerable financial cost to the territorial authority and ultimately the community. Extensive appeals by the alcohol industry have also led councils to develop less restrictive LAPs to avoid an appeal or to weaken an LAP post-appeal. In 2018, 95 percent of territorial authorities across New Zealand voted in favour of amending the Act to make LAPs more effective.[15]

The MHF supports the amendments in this Bill to remove some of the impediments to the effectiveness of LAPs, including revoking the ability for parties to appeal provisional LAPs, and making LAPs applicable to licence renewals.

We suggest the following amendments to make LAPs as effective as possible:

- Consider making it a requirement for all territorial authorities to adopt an LAP or joint LAP, similar to section 101 of the Gambling Act 2003. LAPs are not used as widely as they could be, in part because they are not mandatory.
- Improve provisions for communities to participate in the development of a draft LAP (prior to consultation), including adequate notification of draft LAPs and their status. Such provisions could include adding mana whenua in the list of required consultants in section 78(4) of the Act (if agreed in partnership with Māori).
- Prevent the expansion of alcohol licenses in certain communities by requiring LAPs to give regard to:
    - the overall density of alcohol licences in the district,
    - matters mana whenua consider relevant to wellbeing in relation to alcohol, and
    - whether new licences or renewals should be granted in parts of the district with a high socioeconomic deprivation profile.

  Given the link between availability and harm,[16] and the fact that people in the most deprived areas of Aotearoa are significantly more likely to drink

[vi] See, for example, Hamilton City Council, Christchurch City Council, and Far North District Council.

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hazardously than those in less deprived areas,[17] minimising access to alcohol in poorer communities will avoid further entrenching this inequity.

- Consider whether territorial authorities should be afforded more specific abilities to set other local conditions to reduce harm from alcohol, i.e., regarding the pricing, advertising and availability of alcohol.

We encourage the Committee to consult with alcohol harm experts on the options to strengthen LAPs.

4. Maintain amendments which ensure licensing objections and hearings are accessible to community

The MHF supports the amendments allowing any person to object to an alcohol licence application or renewal. The interpretation of "greater interest than the public generally" has been overly narrow and we have heard anecdotally that individuals and groups whose voices should be highly relevant at licensing hearings, such as Māori health organisations and local iwi, have not met the criteria to object. We also believe that people who live more than two kilometres from the potential outlet could have an interest in the area, for example through whānau, other social connections, or work. Off-licences, where the alcohol is taken and consumed offsite, also have a far wider potential radius of harm than two kilometres. International examples demonstrate that the risk of district licensing committees or the licensing authority being 'overrun' with objections is low, especially where there are provisions available to manage the volume of objections.

We also support the other measures in the Bill to make licensing hearings more accessible to community participants, including removing unnecessary formality, removing the ability of parties to question other parties or witnesses, removing cross examination, and providing remote access to hearings. The way hearings are currently run, and cross examination in particular, can be intimidating and unfair to non-professional objectors.

Summary

Thank you for the opportunity to comment on the Sale and Supply of Alcohol (Community Participation) Amendment Bill. The MHF believes this Bill is a step forward to regulating alcohol in the interest of communities. We also reiterate our support for a full review of alcohol law in Aotearoa that considers the breadth of

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evidence-based interventions to prevent and minimise harm and ultimately improve the wellbeing of all New Zealanders. We encourage you to listen to health promotion expertise and those impacted by alcohol-related harm as the Bill is considered and progressed through Parliament.

Mauri tū, mauri ora,

Shaun Robinson

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About the Mental Health Foundation

The MHF's vision is for a society where all people flourish. We take a holistic approach to mental health and wellbeing, promoting what we know makes and keeps people mentally well and flourishing, including the reduction of stigma and discrimination (particularly on the basis of mental-health status).

The MHF is committed to ensuring that Te Tiriti o Waitangi and its Articles are honoured, enacted, upheld and incorporated into our work, including through our Māori Development Strategy. We are proud that Sir Mason Durie is a Foundation patron.

The MHF takes a public health approach to our work, which includes working with communities and professionals to support safe and effective suicide prevention activities, create support and social inclusion for people experiencing distress, and develop positive mental health and wellbeing. Our positive mental health programmes include Farmstrong (for farmers and growers), Getting Through Together (the national wellbeing promotion programme in response to COVID-19, in partnership with Canterbury DHB Public Health Unit) All Right? (supporting psychosocial recovery in Canterbury, Kaikōura and Hurunui), Pink Shirt Day (challenging bullying by developing positive school, workplace and community environments) and Open Minds (encouraging workplaces to start conversations about mental health). Our campaigns reach tens of thousands of New Zealanders each week with information to support their wellbeing and help guide them through distress and recovery.

We value the expertise of tāngata whaiora/people with lived experience of mental distress and incorporate these perspectives into all the work we do.

Established in 1977, the MHF is a charitable trust, and our work is funded through donations, grants and contract income, including from government.

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