

# OBJECTION



## District Licensing Committee Hearings - Hearing Information Pack

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*This is a guideline for Objectors to assist them with the objection process and hearings*

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- *What to expect at a District Licensing Hearing*
  - *What happens at a District Licensing Hearing*
  - *Giving evidence at a District Licensing Hearing*
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*Resources:*

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- *Alcohol Resources — Objecting to a licence*<sup>1</sup>
  - *Alcohol Resources — Objecting to a licence to sell or supply alcohol: A guide to objections and hearings*<sup>2</sup>
    - *Submission guideline - Have your say about alcohol in your community*<sup>3</sup>
  - **Nelson Bays Community Law Service - Trevor Irwin - Trevor@nbcl.org.nz<sup>4</sup> - 0800 246 146**  
(Nelson 0800 number) or 03 5481288
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## What to expect at a District Licensing Committee Hearing



### What to expect at a District Licensing Committee hearing

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<sup>1</sup><https://resources.alcohol.org.nz/alcohol-management-laws/licensing-local-policies/objecting-to-a-licence/>

<sup>2</sup><https://resources.alcohol.org.nz/resources-research/alcohol-resources/research-and-publications/objecting-to-a-licence-to-sell-or-supply-alcohol-a-guide-to-objections-and-hearings/>

<sup>3</sup>[https://resources.alcohol.org.nz/assets/AL963-Have-Your-Say-Jun-2015\\_Online\\_EB.pdf](https://resources.alcohol.org.nz/assets/AL963-Have-Your-Say-Jun-2015_Online_EB.pdf)

<sup>4</sup><mailto:Trevor@nbcl.org.nz>

District Licensing Committees (DLC) make decisions on applications for alcohol licences, managers' certificates and other matters relating to alcohol licensing. They are set up under the Sale and Supply of Alcohol Act 2012 (the Act) and while administered by Tasman District Council they are independent of Tasman District Council.

A hearing happens when the application is opposed by a member of the public, the Medical Officer of Health, the Police or a licensing inspector. In a hearing, the DLC will receive information, listen to evidence and arguments for and against an application, and ask questions about the application. They will make a decision based on the information and evidence presented, along with any legal considerations under the Act.

The hearing is as informal as possible, but specific rules are followed so that all parties have a fair opportunity to present their case and so the decisions are robust and legal. DLC hearings are open to the public and media may also attend.

### ***How to prepare for a hearing***

- We will tell you the date, time and location of the hearing at least ten working days before the hearing.
- A copy of the agenda will be sent to you to read before the hearing. The agenda will include reports from the Police, Medical Officer of Health, Tasman District Council's licensing inspector and any public objections.
- You may receive pre-hearing instructions about administrative matters, such as when any extra information should be provided before the hearing, and these instructions must be followed.
- If your application or objection is complex, you may like to consider seeking advice from someone with relevant experience, such as a lawyer, consultant, or community group. You'll need to consider the costs of any advice before you seek it.
- Consider whether you want to call witnesses on the day to support your case. Witnesses need to be able to present solid evidence to support your application or objection to help the DLC to make its decision
- Prepare evidence to support your application or objection. Evidence can be verbal, written or visual (such as photographs or drawings). Evidence should focus on facts, not emotions, and be directly relevant to the application
- It's a good idea to prepare some reasonable conditions that could be applied if the DLC decides to grant the application.

### ***Attending a hearing***

- If you are not going to attend the hearing, please tell us before the hearing date. If you don't appear in person (or through an agent or legal counsel) the matter may be heard and determined in your absence.
- If you are an objector, you'll be invited to attend the hearing. You don't have to speak at the hearing, but your objection may have less impact on the DLC than if you had spoken.

- Before you give evidence you'll be asked to swear an oath or say an affirmation promising to tell the truth.

### ***Who is involved in a hearing?***

A DLC has a chairperson and two members that make decisions on applications. When a licence or manager's certificate application doesn't have any objections or matters raised in opposition, the chairperson can make the decision on their own without the need for a hearing.

- DLC chairperson - runs the hearing and gives direction which all hearing participants must follow
- DLC members - two members that make decisions with the chairperson
- Hearing advisor - your point of contact. They support the hearing and advise on correct processes
- Applicant - will usually have a team supporting them including a lawyer and witnesses
- Objectors - give their views on the application and may bring along witnesses to support them
- The reporting agencies:
  1. Licencing inspector - a council officer who will present their report and may be supported by other experts
  2. Police - attend the hearing to oppose the application or assist the committee
  3. Medical Officer of Health - attend the hearing to oppose the application or assist the committee

### ***What happens during a hearing?***

The order of speakers may vary but in general, hearings follow this format:

1. Opening and introduction. The chairperson introduces the DLC members and invites the hearing participants to introduce themselves. The chairperson will give a brief outline of the hearing procedure.
2. Presentation from the applicant. The applicant (either in person or through a representative) introduces their application and presents their case. This may include evidence from witnesses. The DLC may have questions for the applicant and witnesses. The chairperson then invites all other parties to ask the applicant and/or witnesses questions about the evidence they've given (this is called cross-examination).
3. Presentation from the reporting agencies. The Police, Medical Officer of Health and licensing inspector make their submission and present their evidence. They may be asked questions by the DLC. The applicant and objectors may then cross-examine the reporting agencies about the evidence they have presented.
4. Presentation from objectors. Objectors who wish to speak will be invited to talk about their objections. They can do this themselves or through a representative, and they can also call witnesses. At the hearing, objectors can't introduce new grounds for objecting, but can present evidence to support their reasons for objecting. The DLC may have questions for objectors and

their witnesses, and then the applicant and the reporting agencies can cross-examine objectors about their evidence.

5. Closing statements Once objections, questions and cross-examination have finished, the applicant is invited to sum up their case and respond to arguments made during the hearing. No new evidence can be introduced at this stage.

### ***What happens after the hearing?***

All DLC decisions are issued in writing, and this may take some weeks. In some cases the DLC will meet briefly in private and deliver a verbal decision on the day, with a written decision issued later. You'll be sent a copy of the decision which will include a summary of the evidence and arguments heard at the hearing along with the reasons for the decision.

### ***How are decisions appealed?***

Appeals must be lodged with the Alcohol Regulatory and Licensing Authority within ten working days of the decision being notified. You must also notify the other hearing parties and pay the applicable appeal fee. Further information is available at [www.justice.govt.nz/tribunals/alcohol-regulatory-and-licensing-authority](http://www.justice.govt.nz/tribunals/alcohol-regulatory-and-licensing-authority)<sup>5</sup>

## **What happens at a District Licensing Committee Hearing?**



<sup>5</sup><https://www.justice.govt.nz/tribunals/alcohol-regulatory-and-licensing-authority>

This information explains how a hearing runs, who speaks and when, representations and evidence.

The DLC hearing is run by a panel of three people.

### ***How does a hearing run?***

How a committee runs a hearing is generally consistent for every application.

While courtroom formalities need to be followed, the aim is to provide a less formal atmosphere, giving people a chance to put forward their views. The Chairperson will run the hearing process by directing when parties can speak or ask questions, and when breaks will be taken. They will also manage any digression from the hearing procedures.

### ***Before and during the hearing***

Things to note:

- Arrive in plenty of time.
- The doors are open about 15 minutes before the hearing starts.
- While the hearing is in session, if you need to enter or leave, please be as quiet as possible.
- Sit in the public seating to watch the hearing or while waiting to speak.
- During the hearing do not call out with questions or take comments unless asked to do so by the committee.

### ***When the hearing begins***

The Chairperson will call the hearing to order when he/she is ready to commence the hearing. All in attendance are required to remain silent until called on to speak.

### ***Who speaks when?***

The hearing schedule gives the order of witnesses and the approximate times they will appear. Unfortunately it is not always possible to guarantee a specific time for appearing at the hearing. Please advise the Committee Advisor or Secretary about any particular needs you may have. The applicant and the applicant's witness will speak first followed by submitters and their witnesses.

### ***Closing of the hearing***

Once all the evidence has been presented, the representatives for the applicant make their closing statements. The Chairperson then formally closes the hearing.

### ***Sound recording***

The hearing will be recorded and it is important to speak clearly.

### ***After the hearing***

The DLC makes a decision and this is sent out to the applicant and all submitters, including those who did not speak at the hearing. This decision can be appealed.

## Witnesses

Witnesses sit in the public seating until called. If you have any special requests please contact the Committee Adviser.

## Giving Evidence at a District Licensing Committee Hearing



District Licensing Committees (DLC) make independent decisions on applications for alcohol licences, manager's certificates and other matters relating to alcohol licensing. They are set up under the Sale and Supply of Alcohol Act 2012 (the Act). The DLC will be considering the criteria as set out in Section 105<sup>6</sup> of the Act.

When objecting it is important to identify why the alcohol licence is opposed using the Section 105 criteria as a guide.

When it comes to evidence this can be anything that backs up an objection. Evidence can be oral, written or visual, such as photographs or drawings.

Evidence should focus on facts and be directly relevant to the specific premises you are objecting to. Evidence can include eyewitness accounts but not hearsay or beliefs.

Evidence will be shared with all parties and cannot be anonymous.

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<sup>6</sup><https://www.legislation.govt.nz/act/public/2012/0120/latest/DLM3339585.html>

The following are a few examples under each of the Section 105 criteria that have been noticed in recent DLC decisions where an alcohol licence has been declined.

Section 105 Criteria	Examples
The object of the Act	The DLC will always look to motivation for the application. they have an expectation that a clear vision for the premises is established and that the Applicant has the means, skills, systems and experience to ensure compliance with the Act.
The suitability of the applicant	<ul style="list-style-type: none"> <li>- Lack of experience shown by the applicant</li> <li>- No effort made to gain experience in running a high-risk premises which would involve dealing with intoxicated patrons</li> <li>- Poor knowledge of the area</li> <li>- Narrow interpretation of “vulnerable” people limiting consideration to underage people or those intoxicated when in the store. Whereas the definition is significantly wider, including those with socio-economic, educational, language, health and housing disadvantages.</li> <li>- Absence of a business plan</li> <li>- Little research done about the issues surrounding the previous operation and management of the premises and how the applicant would deal with such issues.</li> <li>- While the applicant did not have to engage with the local neighbours about their new business, the fact that the two previous had done this, highlighted the lack of experience.</li> <li>- The applicant was going to set prices after comparing prices at competing outlets, this would likely lead to lower prices.</li> </ul>
Any relevant local alcohol policy	See Tasman District’s Local Alcohol Policy - <sup>[1]</sup> Local alcohol policy   Tasman <sup>[2]</sup> <sup>[3]</sup> District Council <sup>[4]</sup> <sup>[5]</sup>
The days and hours of sale	<ul style="list-style-type: none"> <li>- Operation of one-way doors will be difficult to manage</li> <li>- The hours are considered excessive for the amenity and good order of the locality</li> <li>- If the premises are close to a school, did the applicant consider closing the premises when children were walking past going to and from school</li> </ul>
The design and layout of premises	<ul style="list-style-type: none"> <li>- There was no change to the current design and layout for the premises which had previously been shut down with layout issues</li> <li>- The premises are not fit for the proposed activity (night club) as the walls and windows have not been soundproofed</li> <li>- The assertions of the applicant that “cheap” alcohol and RTDs would not be on prominent display, when the reality is that they will remain readily available to anyone seeking them</li> </ul>
The sale of goods other than alcohol and refreshments	- Concerned the focus of selling goods, which is the applicant’s main income stream according to the business plan, would inevitably turn to selling more alcohol and become more like a bar or tavern in order to profitable
The provision of other services not related to the sale of alcohol and refreshments	<ul style="list-style-type: none"> <li>- Premises are not being used as intended but were principally used for providing alcohol and other refreshments to the public</li> <li>- The premises is not operating as a tavern but as an entertainment venue for the purposes of gambling</li> </ul>
Whether amenity and good order of the area would be substantially reduced	<ul style="list-style-type: none"> <li>- Noting the number of similar premises within 2km radius</li> <li>- Significant drop in number of calls to Police for assistance, since the premises closed</li> <li>- Personal observations such as having observed a number of pedestrians who were “very drunk” and seeing people, particularly in the summer, sitting in cars and pre-loading</li> </ul>